

रजिस्ट्रेशन नं० एल०-३३/एस०-एम० १३-१४/९७.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, मंगलवार, १२ अगस्त, १९९७/२१ श्रावण, १९१९

हिमाचल प्रदेश सरकार

HIGH COURT OF HIMACHAL PRADESH

NOTIFICATION

Shimla-1, the 18th July, 1997

No.HHC/Rules (Vol.V)/97.—In exercise of the powers vested in it under Section 23 of the State of Himachal Pradesh Act, 1970, Section 129 of the Code of Civil Procedure, 1908 as amended upto date Section 477 of the Code of Criminal Procedure, Article 225 of the Constitution of India and all other powers enabling hereunto, the High Court of Himachal Pradesh is pleased to make the following rules to apply, so far as may be practicable, to all proceedings taken on the (Appellate Side) of the High Court of Himachal Pradesh.

RULES AND ORDERS OF THE HIGH COURT OF HIMACHAL PRADESH

(Appellate Side)

PART—I

CHAPTER 1

GENERAL

1. *Short title and commencement.*—These rules may be called the High Court of Himachal Pradesh (Appellate Side) Rules, 1997.

2. These rules shall come into force with immediate effect.

3. *Application.*—All proceedings on the Appellate side of the Court instituted or transferred pursuant to any other law for the time being in force shall, unless otherwise ordered by the Court, be governed by these rules.

4. *Definition.*—In these rules unless there is anything repugnant in the subject or context :—

- (a) “Code” means the Code of Civil Procedure, 1908 (as amended up to date) or the Code of Criminal Procedure, 1973 (as amended up to date) as the case may be.
- (b) “Court” means the High Court of Himachal Pradesh.
- (c) “Practitioner” means an advocate or an attorney or a partnership of practitioners.
- (d) “Registrar” means the Registrar of the High Court and includes the Registrar (Vigilance), District & Sessions Judge (Rules), Additional Registrar (Judicial), Deputy Registrar and Assistant Registrar or any other Officer exercising functions delegated to him under these rules.
- (e) “Copy” means copy of original document prepared by the process of typing, cyclostyling, xeroxing, photostating or by computer prints.

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CHAPTER 2

JURISDICTION OF A SINGLE JUDGE AND OF BENCHES OF THE COURT

1. Subject to the provisions hereinafter set forth the following classes of cases shall ordinarily be heard and disposed of by a judge sitting alone:—

- (i) Second Appeal and any Objection therein under Order 41, Rule 22 of the Code irrespective of the value of the subject matter ;
- (ii) an appeal from an order under the Code including an order passed in the execution of a decree, by a court subordinate to the High Court ;

Cases
ordinari-
ly to be
heard by
single
Judge.

Explanation.—Nothing in this rule shall prevent a Judge sitting alone to refer any appeal to a larger Bench with the approval of the Chief Justice.

- (iii) an appeal relating to costs only ;
- (iv) an application under Section 22 or 23 of the Code for an order determining in which of several Courts having jurisdiction a suit shall be heard, and an application for an order for the transfer of a case from one subordinate court to another ;
- (v) an application under Order I, Rule 8, 10 or 11 read with Section 107 of the Code ;
- (vi) an application for an order extending the time for, or directing any particular method of service or notice on a respondent ;
- (vii) an application for the withdrawal of an appeal or application, or for a consent decree or order, a motion to admit an application and an application when admitted, for an order, under Order XXXII, Order XXXIX, Order XL, or Order XLI, Rule 5 or 6 of the Code, a motion to admit an application under order XXII or Order XLI, and an application under Order XLIV, Rule 1 in a case in which the appeal is within the jurisdiction of a Judge sitting alone.
- (viii) a motion to admit an application, and an application, when admitted under Section 115 of the Code Sections 16 (8) and 24 (5) of the Himachal Pradesh Urban Rent Control Act, 1987, under Section 25 of the Provincial Small cause Courts Act, 1887, or under the first proviso to sub-section (1) of Section 75 of the Provincial Insolvency Act, 1920 or under Article 227 of the Constitution of India and any other civil appeal, application, reference or review under any Act of the Central or State Legislature other than the Code if such appeal, application, reference or review is not otherwise expressly provided for ;
- (ix) a reference under Order XLVI of the Code or under Section 80 or Section 81 of Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) as amended upto-date ;
- (x) a proceeding of a civil nature under a special Act of the Central or State Legislature coming before the court in the exercise of its original jurisdiction e. g., under the Indian Trusts Act, 1882, the Companies Act, 1956 the Inventions and Designs Act, the Indian Divorce Act, the Indian Succession Act, the Guardians and Wards Act or the Banking Companies Act, 1949 ;
- (xi) An appeal, petition or reference under the Code of Criminal Procedure, 1973 other than :
 - (a) an appeal or reference or a petition for enhancement of sentence in a case in which a sentence of death or of imprisonment for life has been passed ;
 - (aa) an application under Section 378 of the Code of Criminal Procedure, 1973 for the grant of Special Leave to appeal from an order of acquittal in respect of offences punishable with imprisonment of 10 years or more ;

- (b) an appeal under Section 378 of the Code from an order of acquittal in respect of offences punishable with imprisonment for 10 years or more ;
- (c) a case in which notice has been issued to a convicted person who has been sentenced to imprisonment for a term of ten years or more to show cause why the sentence should not be enhanced ;
- (d) a case in which notices has been issued to a convicted person requiring him to show cause why his conviction should not be altered to one of any offence punishable only with death or imprisonment for life ;
- (e) an appeal by the accused against the conviction where the imprisonment awarded is 10 years or more ;

Provided that a Judge may, if he thinks fit, refer any matter mentioned in any of the clauses of this rule or any question arising therein, to a Division Bench, with the approval of the Chief Justice.

Jurisdiction of a vacation Judge sitting singly.

2. Except in a case which the law requires to be heard by a Bench of two or more Judges, a Single Judge whilst acting in the long vacations as a Vacation Judge/s, may exercise the original and appellate jurisdiction vested in the Court:—

- (i) in any criminal case other than one mentioned in exceptions (a), (b), (c) and (d) of clause (xi) of Rule 1 ;
- (ii) in any civil matter ;
- (iii) in any matter connected with, relating to or arising out of a writ petition under Article 226 of the Constitution for the preliminary hearing or the admission of such a petition; and
- (iv) in any miscellaneous business, which in his opinion requires immediate attention.

3. The following matters shall be heard by a Bench of two Judges :

- (i) An application or petition under Article 226 of the Constitution of India for the issue of any directions, orders or writs in the nature of *mandamus*, prohibition, *quo warranto* or *certiorari* or for the enforcement of the fundamental rights conferred by Part III of the Constitution of India or for any other purpose.
- (ii) A case coming before the Court in the exercise of its extra ordinary original criminal jurisdiction (including a case under Article 226 of the Constitution of India).

All cases to be disposed of by a Bench of two or more Judges save as provided by law or these rules,

4. Save as provided by law or by these rules, all cases shall be heard and disposed of by a Bench of two or more Judges. Provided that it will be open to the Chief Justice to direct by special order that any matter may be disposed of by a Bench of two or more Judges.

FULL BENCH

5. A Full Bench shall ordinarily be constituted of three Judges, but may be constituted of more than three Judges in pursuance of an order in writing by the Chief Justice. Constitution of Full Bench.
6. The Chief Justice shall nominate the Judges constituting a Full Bench. Judges of Full Bench shall be nominated by the Chief Justice.
7. If a majority of a Full Bench of three Judges so determine, by order in writing at any time before final decision, the Full Bench for the decision of any question or cases referred to a Full Bench of three Judges shall be constituted by four or more Judges according to such direction. Case when a Full Bench shall consist of 4 or more Judges.

CHAPTER 3

THE HEARING OF CAUSES AND OTHER MATTERS

1. The Court will be sitting daily, except on authorized holidays, for the transaction of Judicial business, between the hours of 10.00 A. M. and 4.15 P. M. Hours of business.
No fresh case will ordinarily be called on for hearing after 4.15 P. M.; but the hearing of a part-heard case may be continued so long as the court hearing it may deem necessary.
2. The Judges will sit singly or in Benches of two or more in accordance with a roster to be prepared from time to time. The roster will be prepared by the Registrar on the direction of the Hon'ble the Chief Justice. Roster of single and Division Benches.
3. Appeals, applications and petitions for a preliminary hearing will be distributed by the Registrar two days in advance in accordance with the Roster. The distribution lists will not be made without his authorization and initials. A copy of the list will be supplied to the Judges' Readers and to the Bar room, and the Judges' Readers will bring to the notice of the Judges and the Registrar, any alterations that appear unauthorized. Distribution of work to be made by the Registrar
4. Ordinary and urgent petitions shall be set down for hearing by the Registrar before Single and Division Benches in accordance with the roster for the time being prescribed under Rule 2 above. Hearing of ordinary and urgent petitions.

Fortnightly and daily lists of civil and criminal cases and their adjusment.

5. (a) A register of Civil cases complete in every respect will be maintained in the High Court. From this register, cases will be taken up in a chronological order for incorporation in a fortnightly list of cases to be heard by the Division Benches and Single Benches. For the convenience of counsel, a copy of the fortnightly list of each Bench will be sent to the Bar seven days before the beginning of the fortnight. When the work is likely to run short, the said list will be supplemented by the Registrar.

(b) Daily list of matters posted for orders, admission and urgent hearing will be sent to the Bar Room at 4.15 P. M. on the day preceding the date of hearing except the lists for Mondays, which will be supplied to the Bar Room at 12.00 Noon on the preceding Saturdays. After the cases in the Daily lists are over, the cases in the fortnightly list will be taken up for hearing by the respective Bench.

(c) The aforesaid provisions will apply *mutatis mutandis* to criminal cases.

(d) Full and Special Bench cases such as Matrimonial Reference, reviews and applications for leave to appeal to the Supreme Court etc., which cannot conveniently be heard on ordinary Bench days, will be heard on such day or days as the Chief Justice may direct.

Cases to be heard in the order of date of admission.

6. Cases will be set down in the lists in chronological order except in the following and will be heard in that order, unless directed otherwise by the court.

EXCEPTIONS :

(A) postponed cases take priority over all other cases in Division Bench and Single Bench matters in their own class.

(B) Remanded cases take priority over all others except postponed cases.

(C) Cases fixed for "actual dates", shall be listed first in the daily lists subject to part-heard cases.

(D) Cases marked "very early", or "early" by order of a Judge or Judges shall take priority over ordinary cases.

(E) An appeal or petition against an order of remand of a lower court shall be marked "early" and shall take priority over ordinary cases.

(F) An appeal or petition in connection with which proceedings pending in the lower court are ordered to be stayed or have to be stayed in consequence of the record being sent for by the High Court for the disposal of such appeal or petition, shall be marked "early", shall take priority over ordinary cases and shall be set down for hearing within a period of three months from the date of stay or admission.

(G) Jail Petition/Appeal from the convict who is in prison shall be given priority over other matters.

7. (i) The applications, on the administrative side, for adjournment of cases, which are not actual date cases and which are not included in the list, shall be presented personally to the Registrar, ordinarily at least three days before they are included in the list. Adjournment of cases.

In exceptional cases and in unforeseen circumstances, such applications may be presented, on a day before such date, but by 11.00 A. M.

(ii) No application for adjournment of 'actual date' cases which are to be included in the list, shall be presented to and entertained by the Registrar unless consent thereto is given by the opposite parties.

(iii) After receipt of the application, the Registrar will place the application before the Hon'ble the Chief Justice for orders.

(iv) Ordinarily part-heard cases will be proceeded with on the following day or days till they are concluded.

8. In the matter of elevation to the bench or appointment otherwise or death of an advocate, the Registrar shall issue notices (s) to the parties only if, there is no other advocate on record at that time. Such notice (s) shall be issued within one month from the date of such elevation, appointment or death with an endorsement, that if he/she does not make arrangement for engaging an advocate for conducting his/her case within four weeks of the receipt of the notice, he/she will be set *ex parte*. Duty of counsel to attend on the date of hearing.

9. If a party has been served in a proceeding with notice there is no need for sending any other notice to him in the matter even if he remains absent without entering appearance in the case.

10. In any matter in which the party is represented by counsel, all notices in such matter shall be served only on such counsel.

CHAPTER 4

POWERS DELEGATED TO THE REGISTRAR FOR DISPOSAL OF CERTAIN JUDICIAL MATTERS

1. The following functions shall be performed by the Registrar subject to such general or special orders as may, from time to time, be passed by the Hon'ble the Chief Justice :

- (i) To issue notices on an application for Probate or Letters of Administration or for revocation of the same.
- (ii) To dispose of all matters relating to the service of notices or other processes, including substituted service, except the power to dispense with service on proforma respondents.
- (iii) To receive and dispose of an uncontested application under Order XXII, Rules 2, 3, 4 and 10 of the Code. and to amend the record, if necessary, except in cases under appeal to the Supreme Court.

- (iv) To appoint or discharge a next friend or guardian *item* of a minor or person of unsound mind, except in cases under appeal to the Supreme Court, and to amend the record accordingly.
- (v) To receive an application under Order XLV, Rule 15, of the Code and to issue notice thereon.
- (vi) To receive an application for substitution of names in an appeal to the Supreme Court, and to issue notice thereon.
- (vii) to receive and dispose of an application for the return of a document.
- (viii) To require any person or party to file an affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.
- (ix) To call for a further deposit when the deposit already made by the appellant in an appeal to the Supreme Court is not sufficient to defray the cost of preparing the record.
- (x) To order payment of the interest accruing on Government Promissory Notes deposited under Order XLV Rule 7, of the Code, and to order the refund of any unexpended balance under Order XLV, Rule 12.
- (xi) To specify the newspapers in which the publication referred to in Order XLV, Rule 9-A of the Code, shall be made.
- (xii) To grant time for making up deficiency in court-fees in cases referred to him as Taxing Officer under Section 5 of the Court fees Act, 1870. No application for extension of the time will be refused without the orders of the court.
- (xiii) To condone delay in removing the objections raised by the office to papers presented in the Registry upto a period of four months in the aggregate. If the aggregate delay exceeds four months, application for condonation must be placed before an Hon'ble Judge of the Court.
- (xiv) To order for proceeding *ex parte* against a respondent who has failed to appear before the Registrar despite due service of notice.
- (xv) To sign complaints under clause (a) of sub-section (3) of Section 340 of Criminal Procedure Code. Provided, the Registrar may refer any matter under Rule 1 (i) to (xiii) to the Court for orders.
- (xvi) To receive application and memorandum presented by indigent person.

Powers
delegated
in the
Registrar
in criminal
cases.

2. The Registrar shall be deemed to be performing judicial or quasi-judicial functions within the meaning of section 128 (2) (i) of the Code when exercising powers referred to in Rule 1 above and his proceedings will be subject to revision by a Single Judge on the motion of the party aggrieved.

3. The Registrar may exercise all the powers of a Court under Section 152 of the Code in respect of orders passed in exercise of powers under Rule 1.

CHAPTER 5

INSTITUTION OF PROCEEDINGS

A. PRESENTATION OF APPEALS, PETITIONS, CIVIL WRIT PETITIONS ETC.

1. All appeals, civil Writ petitions, petitions and applications for review and revision and other petitions etc. affidavit or other documents and all other proceedings connected with the judicial work of the Court sought to be presented, shall be so presented by litigants or their Advocates or registered clerks of the Advocate, at the filing counter between 10 A. M. and 1 P.M. and 2 P. M. and 4 P. M. on every day, other than a Court holiday, accompanied by the form prescribed in Annexure-A, in duplicate, duly filled in with all the necessary particulars. On such presentation, the court official at the filing counter, shall verify the papers presented and return the duplicate of the form prescribed in Annexure-A duly signed by him with the seal of the court to the litigants or the Advocates or the registered clerks of the advocates, as the case may be, in token of presentation of such proceedings in the Court:

Provided that appeals, application for review or revision and petitions etc. or any other documents of the prisoners or detenus, received through the officer incharge of the prison, shall be entertained by this Court.

All appeals, application for review or revision and petitions etc. accompanied by petition to be treated as urgent as well as transfer application petition for issue of writ which are to be treated as urgent may be super scribed as urgent and may be so presented by the litigants or their Advocates or registered clerks of the Advocates at the filing counter on any working day during filing hours. Civil writs and transfer applications in civil cases are not, however, treated as urgent during the period the High Court is closed for long vacation, unless accompanied by a petition to be treated as Urgent.

ORIGINAL

ANNEXURE-A

HIGH COURT OF HIMACHAL PRADESH SHIMLA
APPELLATE SIDE

Receipt Showing Court Fee paid.

*LAP/RFA

RSA/MSA

FAO/C. R.

CMP/Review

Cr. A/Revision.

CWP/Cr. W. P.

Cont. App./Coy. Appeals

CMP (M)

of 19

against

on the file of the

Particulars	Amount	
Court fee Stamp, on Memo	Rs.	P.
-do- Petition		
-do- Enclosures		
-do- Vakaltnama		
-do- Process fee		
-do- Others		
Total ..		

Date.— Signature of receiving clerk.

*Note :—Fill up the complete particulars of the proceedings before the authorities below.

DUPLICATE

ANNEXURE-A

HIGH COURT OF HIMACHAL PRADESH SHIMLA

APPELLATE SIDE

Receipt Showing Courts fee paid.

*LPA/RFA,

RSA/MSA

FAO/C. R.

CMP/Review

Cr. A/Revision.

CWP/Cr. W. P.

Cont. App./Coy. Appeals

CMP/(M)

of 19

against
on the file of the

Particulars	Amount	
Court fee Stamp, on Memo.	Rs.	P.
-do- Petition		
-do- Enclosures		
-do- Vakalatnama		
-do- Process fee		
-do- Others		
Total..		

Date : Signature of receiving clerk.

*Note :—Fill up the complete particulars of the proceedings before the authorities below:—

B. PRESENTATION OF CRIMINAL APPEALS, CRIMINAL WRIT PETITIONS AND REVISIONS ETC:

1. All criminal writ Petitions, criminal appeals and revisions under Section 401 of the Code of Criminal Procedure and all other petition connected with the judicial work of the Court shall be presented by litigants or their Advocates or the registered Clerks of the Advocates at the filing counter between 10 A.M. to 1 P.M. and 2 P.M. to 4 P.M. on every day, other than a Court holiday, accompanied by the form prescribed in Annexure-A, in duplicate, duly filled in with all the necessary particulars. On such presentation, the court official at the filing counter shall verify the papers presented and return the duplicate of the form prescribed in Annexure-A duly signed by him with the seal of the Court to the litigants or the Advocates or the registered Clerks of the Advocates, as the case may be, in token of presentation of such proceedings in the Court.

2. All Criminal writs, criminal appeals, revision petitions and applications etc., accompanied by a petition to treat the same as urgent shall be superscribed as such and shall be so presented by the litigants or their Advocates or the registered clerks of the Advocates at the filing counter on any working day during the filing hours.

C. APPEALS AGAINST ORIGINAL DECREES OF SUBORDINATE COURTS.

1. Every memorandum of appeal from an original decree of a Subordinate Court shall be in English and accompanied by:—

- (i) as many clear authenticated copies on plain paper of the memorandum of appeal as there are respondents to be served, together with another such copy for the Court record ;
- (ii) the particulars for service of notices on the respondents ;
- (iii) the fees prescribed for service of such notices on the respondents.

D. APPEALS AGAINST APPELLATE DECREES AND ORDERS :

1. Every memorandum of appeal against an appellate decree or appellate order shall be in English and accompanied by:—

- (i) as many clear authenticated copies on plain paper of the memorandum of appeal as there are respondents to be served, together with another such copy for the court record,
- (ii) the particulars for the service of notices on the respondents ;
- (iii) the fees prescribed for service of such notices on the respondents.

E. APPEALS AGAINST ORDER:

1. The provisions as contained in Part-C of this Chapter shall *mutatis mutandis* apply to appeals against orders/awards under the Code and any other Central/State Legislation.

2. Every memorandum of Appeal against order shall be accompanied by:—

- (i) a certified copy of the order if any against which the appeal is filed ;

- (ii) One additional copy of the order referred to above ;
- (iii) as many clear authenticated copies on plain paper of the memorandum of grounds of appeal as there are respondents to be served, together with another such copy for the court record ;
- (iv) the particulars for service of notices on the respondents alongwith fees prescribed for service of such notices on the respondents.

3. If the appeal is against an interlocutory order, it shall be accompanied by a certified copy of the order against which the appeal is filed, true copies of the pleadings of the parties in the main matter, true copies of the applications and replies thereto whereon the order appealed against was passed and a copy of any other material document (s) relied to support the grounds taken in the appeal.

However, when any of the accompanying documents is in vernacular, the Court may direct filing of English translation thereof.

F. APPEALS BY INDIGENT PERSONS :

1. No application for leave to appeal as indigent person shall be received unless it is accompanied by a memorandum of appeal nor shall a memorandum of appeal purporting to be on behalf of indigent person be received unless it is accompanied by an application for leave to appeal as an indigent person. A schedule of any movable or immovable property belonging to the applicant, with the estimated value thereof shall be annexed thereto. The Schedule shall also be signed and verified in the manner prescribed for the signing and verification of pleadings.

2. (a) Such application and memorandum shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court, under Section 132 or 133 of the Code or any other provision of law. In the latter case the application and memorandum can be presented by an authorised agent who can answer all material questions relating to the application. Such agent may be examined in the same manner as the party represented by him might have been examined, had such party attended in person.

(b) Every such application, if presented by an agent shall state on the face thereof, that the applicant is a person exempted from appearance under section 132 or section 133 of the Code or any other provision of law and shall not be received unless it contains such a statement.

3. When an application or memorandum of appeal is one that cannot be received the forging directions, the Registrar shall record, or cause to be recorded thereon, the name of the person presenting such application or memorandum the date of its presentation, and an order returning the same for due presentation with the reason for such order and shall sign and date such order with his own hand.

G. CIVIL REVISIONS :

1. Every civil revision petition shall be in English and stamped as required by law, and shall be accompanied by a copy of the decree or order in respect of which such application is made and by a copy of the judgment upon which such decree is founded.

In the case of petitions for revision of the decree or order of an appellate Court, a copy of the judgment or order of the court of the first instance shall also be filed.

2. Civil revision petitions under Section 115 of the Code or any other enactment shall be accompanied by :

- (1) a certified copy of the decree or order which is to be revised ;
- (2) a certified copy of the judgment, if any, on which decree is based ;
- (3) a certified copy of the judgment or order if any, of the Court or Tribunal of the first instance ;
- (4) one set of additional copy of the judgments and orders referred to above ;
- (5) as many clear authenticated copies in plain paper of the memorandum of grounds on the revision petition as there are respondents to be served, together with another such copy for the court record ;
- (6) the particulars for service of notice on the respondents alongwith fees prescribed for service of such notices on the respondents.

3. If the civil revision petition is against any interlocutory order, it shall be accompanied by a certified copy of the order which is to be revised, true copies of the pleadings of the parties in the main matter, true copies of the applications and replies thereto whereon the order sought to be revised was passed and a copy of any other material document (s) relied to support the grounds taken in the petition.

However, when any of the accompanying documents is in vernacular, the Court may direct filing of English translation thereof.

H. CRIMINAL REVISIONS:

1. The Registrar shall not receive any petition for revision of an order of acquittal passed in a case instituted on police report, unless it is accompanied by a copy of an order of the District Magistrate, refusing to move the State Government to appeal under Section 378 of the Code.

Note.—The complainant has a right of appeal from an order of acquittal passed in a case instituted upon complaint, where the High Court has granted him special leave to appeal on the application made under Section 378 (4) of the Code.

2. A petition under Sections 397 and 401 of the Code of Criminal Procedure for the revision of orders of any criminal court inferior to the Court of Session in non appealable cases shall not be entertained by the Registrar unless the same contains an averment supported by an affidavit of the petitioner that he has not filed any such petition before the Sessions Judge. The petitioner shall also state whether to his knowledge similar application has or has not been made by any other person to the Sessions Judge and if made shall state the result thereof.

3. Every petition for revision of an order shall be accompanied by a copy of the order in respect of which such application is made.

4. In the case of petition for revision of the order of an appellate Court, a copy of the order of the Court of the first instance shall also be filed.

I. APPLICATION OR REVIEW :

1. Every application for review of a judgment or order of a Division Bench or of a Single Bench of the High Court presented by an Advocate shall be signed by him.

2. It shall be accompanied by a certified copy of the judgment sought to be reviewed.

3. Where, in a petition for review, notice is ordered to the opposite party, such notice shall be served on the practitioner who represented the party in the main proceeding and such service shall be deemed to be sufficient service on the party whom he represented. A practitioner may refuse, in writing, to accept such notice. A practitioner shall then be required to take out notice to the party direct. The practitioner who had refused to accept notice shall not be permitted to appear for the party thereafter except on filing a fresh vakalat. In cases where the opposite party has not appeared by a practitioner in the main proceeding, notice shall be served on the party direct.

J. MISCELLANEOUS :

1. The Memorandum of Appeal/Revision/Review must contain the number of the case and date of decision against which such appeal or revision is being preferred. In case of Second Appeal, the number (s) of the Case and date (s) of decisions of both the lower courts shall be mentioned. In case the appellant-petitioner fails to give these particulars, the appeal/revision shall be held 'under objection'.

CHAPTER 6

A. PETITIONS/MEMO OF APPEALS

1. Every memorandum of appeal or application shall specify the provision of law under which the appeal or application is filed. The Registrar shall refuse to receive any memorandum of appeal or application which does not comply with this rule.

2. No petition, memorandum of appeal or other document which ought to bear a stamp under the Court Fees Act, 1870, shall be received in the Court until it is properly stamped.

3. Where a petition or application for the transfer of a criminal case from one criminal court to another criminal court in the same Sessions Division is made to the High Court, it shall contain an averment, supported by an affidavit or attested copies, that an application for the transfer of the case was made to the Sessions Judge and was rejected by him under section 407 (2) of the Code of Criminal Procedure.

4. (i) Petitions for transfer in a pending criminal case shall be refused by the Registrar unless accompanied by attested copies of the documents relied on by the petitioners. If admitted, the records should not be sent for unless a Judge specifically so orders.

(ii) A copy of such petition for transfer shall be supplied to the Advocate-General, before it is filed in Court. The petition shall state whether a copy has been supplied in accordance with this rule and if a copy has not been supplied, the reasons for not supplying the same shall also be stated.

5. Notice of the hearing of urgent petitions shall not be given individually to the Petitioner or his counsel but a list of such petitions shall be hung up for the purpose on the notice board outside the Registrar's room on the day preceding the date fixed for the hearing of these petitions giving the name of the Judge by whom the petition will be heard.

6. In petitions under Section 397, Criminal Procedure Code, against the order of a Magistrate, in cases tried summarily and in which there are no records except entries in the Register of Summary Trials (Criminal Register No. XVII), certified copies of the relevant entries in the Register shall be called for instead of records.

B. APPLICATION UNDER SECTION 5 OF THE LIMITATION ACT:

An application under Section 5 of the Limitation Act which a party may file for condonation of delay in filing any appeal petition or application shall contain :

- (i) the date when the prescribed period expired without allowances;
- (ii) the allowances to which the applicant claims to be entitled;
- (iii) the date when the period expired after all the allowances to be made under clause (ii) have been made;
- (iv) the number of days by which the filing of appeal, petition or application, as the case may be, is delayed after all allowances to be made under clause (ii) have been made.

C. MISCELLANEOUS :

1. The Registrar of the High Court shall be the Taxing Officer within the meaning of Section 5 of the Court Fees Act.

2. The Registrar is authorised to examine and impound under Section 33 (2) (b) of the Indian Stamp Act, 1988, any instrument not duly stamped.

3. On the admission of Civil Revisions, First Appeals and Second Appeals, the records of the Subordinate Courts shall be sent for automatically :

Provided that where main proceedings in the case are pending before the lower court, the records shall be sent for only where the Court so directs specifically.

4. Copies of all bail applications received in the High Court relating to criminal cases pending in lower courts, when bail has already been refused by the lower court, shall be supplied to the Advocate-General by the Registrar to enable him to appear, if desired, on behalf of the Government provided that hearing of any particular case by the Judge to whom it is assigned is not delayed by this procedure.

5. In every application for bail presented to the High Court the petitioner shall state whether similar application has or has not been made to any other Court, and if made shall state the result thereof. An application which does not contain this information shall be returned for re-submission with the necessary information.

6. Copies of applications presented in the High Court by complainants under Section 378 (4) of the Code of Criminal Procedure for special leave to appeal against the orders of acquittal shall be supplied to the Advocate-General and a certificate to that effect obtained from him before filing them in the High Court.

7. Whenever any objection is taken by the office to the papers presented that they are not in accordance with the relevant Rules, the maximum period for removal of such objections shall be seven days at a time and 20 day in the aggregate. If the period taken by the concerned party for removal of the objections exceeds the time limits specified above, the Registry shall not accept the papers unless the delay in removal of such objections is condoned on an application by the party.

CHAPTER 7

A. APPLICATION UNDER ORDER XXII, CODE OF CIVIL PROCEDURE:

(i) *Legal representation of deceased parties and appeals by persons who were not parties to the Decree or Order :*

Proced-
ure to
make res-
pondent
the legal
represent-
ative of
a decea-
sed party
who died
after the
decree or
order app-
ealed
from.

1. Whenever a party to a decree or order, desires to appeal therefrom and to make as a respondent to his appeal the legal representative of a person who, having been a party to such decree or order, has died either after the hearing and before the judgment, or after the date of such decree or order, and who, if alive would be a necessary party as a respondent to such appeal and whose legal representative has not as such been made a party to the decree or order, or to subsequent proceedings thereunder or thereon the party so desiring to appeal may present to the High Court for admission a memorandum of appeal with the name of such legal representative mentioned therein as such as that of a respondent if at the time when he presents such memorandum of appeal for admission, he along with such memorandum of appeal, presents an affidavit stating such facts as may be necessary in support of the cause title contained in such memorandum of appeal.

Appeals
by persons
other than
parties to
the decree
or order
appealed
from.

2. Whenever by a decree or order the interest of :—

- (a) a beneficiary in property which at the date of such decree or order was vested in or in the possession of a trustee, an executor, an administrator, or a receiver or manager appointed by a court who as such was a party to such decree or order ; or
- (b) a legal representative as such of a deceased party to such decree or order ; or

- (c) an assignee of a party to such decree or order by assignment subsequent to the date of such decree or order; or
- (d) a person whose interest arose after the date of such decree or order by reason of any creation or devolution or interest, by, through, or from any party to such decree or order is affected;

and such beneficiary, legal representative, assignee, or person was or has not been made a party to such decree or order or to proceedings thereunder or thereon and desires to present to the High Court for admission a memorandum of appeal from such decree or order, he may name himself therein as an appellant if at the time when he presents such memorandum of appeal for admission he alongwith such memorandum of appeal presents an application for leave to file the appeal supported by an affidavit stating such facts in support of his application.

3. Whenever, after the memorandum of appeal has been presented to the High Court, any appellant or any party interested in the maintenance of any objection filed in the appeal under Order XLI Rule 22 or 26 of the Code first ascertains that a person, whose name appears in the memorandum of appeal as that of a party to the appeal and who if alive, would be a necessary party to such appeal or objection, had died before the memorandum of appeal was presented to the High Court or admitted such appellant or party so interested as aforesaid may, but subject to the law of limitation, apply for an order that the memorandum of appeal be amended by substituting for the person, who had so died as aforesaid, his legal representative, if at the time when he presents such application, supported by an affidavit showing that such application is made with all reasonable diligence after the fact of the death of such person first came to the knowledge of such applicant or the agent, if any, acting on his behalf in the litigation.

Amendment of memo of appeal when a deceased person made a party in ignorance of death.

(ii) *General Rules as to Appeals :*

4. Every application :—

- (a) under order XXII, Rules 3 (1) and 11 of the Code by a person claiming, to be legal representative of deceased appellant to enter his name on the record in place of the deceased party;
- (b) under order XXII, Rules 4 and 11 of the Code, to make the legal representative of deceased respondent a party in place of the deceased; and
- (c) under the second clause of Order XXII, Rule 3 of the Code, by respondent;

Application to bring on record legal representative of a party to show date of death.

shall, in addition to any particulars required by law state the date of the death of the deceased party.

Affidavit to accompany application made under Rules 5 and 6 and application to add or substitute a party.

5. Every application of the kind specified in Rule 4 of these rules and every application under Order XXII, Rule 10 of the Code to make the petitioner or some other person an additional or substituted party in a suit or appeal, shall, as to the allegations of fact contained in such application be verified by affidavit.

Mode of presentation.

6. Every application under Order XXII of the Code shall ordinarily be presented to the Registrar, who shall cause the date of presentation to be entered thereon.

7. When an application to have the name of the legal representative of a deceased party, or the name of an additional or substituted party, brought on the record, or to have the name of a party struck off the record is granted by order of a Judge or Bench (as the case maybe), the Registrar shall cause the record of the proceedings in the High Court to be amended in conformity with such order.

Form of amendment.

8. Every person admitted on the record as the legal representative of a deceased appellant or respondent, shall be described as "the legal representative" of A.B., deceased appellant or respondent, as the case may be and, similarly in the case of an insolvent appellant, or respondent.

(iii) Special Rule as to Appeals :

9. When an application of the kind specified in rule 4 of these rule is presented to the Registrar within time in relation to an appeal pending before the Court, and is not opposed, the Registrar is authorised to make an order granting the application and to cause the necessary amendments to be made in the memorandum of parties names, and notices to be issued to the parties concerned in the appeal.

Orders to be granted by Judge.

10. Every application under Order XXII of the Code not falling within Rules 1 and 9 of these rules, or not granted under these rules, shall be laid before a Judge for order.

(iv) Rules as to proceedings other than appeals :

Rule to apply to other proceedings.

11. The foregoing rules shall apply to all proceedings of a civil nature, other than appeals, to which Order XXII of the Code is applicable.

CHAPTER 8

THE REPRESENTATION OF MINORS AND PERSONS OF UNSOUND MIND

1. Unless the Court orders otherwise, the person who was representing the minor in the lower Court as next friend or guardian shall continue to do so in the appeal.

2. Whenever a Judge or Bench sees cause to appoint a next friend of a minor appellant or a guardian in the appeal of a minor respondent, and an order to that effect is passed, the Registrar shall cause the memorandum of parties names in the appeal to be amended accordingly.

Appoint-
ment of
next friend
or
guardian.

3. The foregoing rules shall apply, so far as may be, to proceedings in review of judgment or in revision and to proceedings of a civil nature other than appeals, to which order XXXII of the Code is applicable.

Rules to
apply to
proceed-
ings other
than app-
eals.

4. The foregoing rules relating to the representation of minors shall apply, *mutatis mutandis*, to the representation of persons of unsound mind, adjudged to be so under any law for the time being in force.

Rules to
apply in
case of
persons
of unso-
und
mind.

5. The foregoing rules are subject of the provisions of Order XXXII, Rule 16 of the Code.

Savings
for Ruler
of a for-
eign
State.

CHAPTER 9

THE MAKING AND FILING OF AFFIDAVITS IN THE HIGH COURT

1. Every affidavit used on the Appellate side, shall be entitled '*In the High Court of Himachal Pradesh, Shimla*' and shall set forth the cause title of the appeal or other proceeding in which the affidavit is sought to be used as evidence. An affidavit in support of, or in opposition to, an interlocutory application relating to an appeal, petition or other proceeding pending in the High Court shall be entitled as made in such appeal, petition or other proceeding.

2. Every deponent of an affidavit shall be described in such a manner that he can be identified clearly; his full name, his father's name, his age, his profession or trade, and his residential address in full shall be given.

3. An affidavit shall be confined to statements of fact and be divided into numbered paragraphs, each paragraph being confined, as nearly as may be, to a distinct portion of the subject.

4. When the affidavit covers more than one side of a sheet of paper, the writing shall be on both sides of the sheet, and the deponent shall sign his name at the foot of each page.

5. When the deponent speaks to any fact within his own knowledge, he shall do so directly and positively using the words 'I make oath (or affirm) and say'.

6. When a particular fact is not within the deponent's own knowledge, but is stated upon information, the deponent shall use the words 'I am informed by (giving the source of the information, if possible) and verify believe it to be true', and set forth the grounds of his belief, if any.

7. The affidavits intended for use on the appellate side by the court may be made before the Deputy Registrar, Notary or the Oath Commissioner and it shall be only in English.

8. Documents referred to in affidavits shall be referred to as exhibits and shall bear a certificate signed by the person before whom the affidavit is made in the following form :

This is the exhibit marked 'A' (or as the case may be) referred to in the affidavit of A,B, sworn (or affirmed) before me this day of 19.....

(Signed) C.D.
(Designation)

9. The person before whom an affidavit is made shall state the day when and the place where the same is made and sign his name and add his designation at the end in the following form :—

Sworn (or solemnly affirmed) at on this day of 19.....

(Signed) A.B.

Before me.

(Signed) C.D.
(Designation)

10. Alterations and interlineations, if any, in an affidavit shall be authenticated by the initials of the person before whom the affidavit is made and no affidavit containing any alteration or interlineation not so authenticated, or any erasure, shall, except with the leave of the Court, be filed or made use of in any manner. The number of alterations or interlineations so authenticated shall be noted at the foot of each page under the initials of such person. Each page shall be serially numbered at its foot under the initials of the person before whom the affidavit is made.

11. If the person before whom an affidavit is made does not know the deponent himself, he shall require him to be identified to his satisfaction. In

such cases he shall specify at the foot of the affidavit the name and description of the person who identified the deponent before him.

Where there has been no such identification, he shall take the impression of the left thumb of the deponent at the foot of the last page and the following certificate shall be appended to it :—

‘Certified that this is the impression of the left thumb of the deponent of the of the above affidavit.’

(Signed) C.D.
(Designation)

12. If the person making affidavit is ignorant of the language in which it is written, or appears to be illiterate, or blind, the person before whom it is made shall have it read over to him in his presence in a language which he understands. Thereafter, he shall be sworn or be affirmed in the usual manner, and a certificate in the following form shall be appended to the affidavit:—

Sworn (or solemnly affirmed) at on this day of 19 , before me. The contents of this affidavit (or solemn affirmation) and the exhibits therein referred to have been first truly and audibly read over to the deponent in the being unacquainted with (or being blind), who appeared perfectly to understand the same and made his mark thereto (or signed his name) in my presence. (Sd/-) A.B.

(Signed) C.D.
(Designation)

13. In administering oaths and affirmations, the provisions of the Indian Oaths Act (X of 1873) shall be observed.

The following forms are to be used :—

OATH

‘I, A.B., swear by Almighty God that that is my name handwriting, and that the contents of this my affidavit are true’.

SOLEMN AFFIRMATION

‘I, A.B., solemnly affirm in the presence of Almighty God that that is my name and handwriting and that the contents of this my affidavit are true’.

OR

‘I, A.B., do solemnly, sincerely and truly declare and affirm that that is my name and handwriting, and that the contents of this my affidavit are true’.

14. Under the provisions of Section 139 and Clause (b) of the Code of Civil Procedure, the following Officers are appointed to administer oath to the deponent in the case of any affidavit under the said code :

1. Deputy Registrar for the time being.
2. Notary.
3. Oath Commissioner.

CHAPTER 10

A. PROCESSES ISSUED BY THE HIGH COURT IN THE EXERCISE OF THE JURISDICTION

Amount of process fee. 1. A fee of rupees three in Court-fee labels shall subject to rules in Chapter 5-B, Rules and Orders of this Court, Volume IV be charged for each summon, notice or other process issued by the Court.

Period allowed. 2. Unless otherwise ordered by a Judge, process fee shall be paid along with prepaid registered envelope within a period not exceeding seventh days from the date of the order admitting an appeal or application or of an order for notice or warrant, provided that if the office of the Court is closed on the seventh day, the fee shall be tendered on the next day the office is open. The office shall not be required to give any notice or intimation that such process fee is payable.

Note 1.—In motions which are admitted the Court Reader will draw the attention of the appellant or petitioner, who appears in person and not through Counsel, to this rule and take his signature on Part-B of the file.

Note 2.—No fee is charged for issue of processes in Criminal cases in this Court.

Receipt for the process. 3. No process shall be prepared or issued until the proper fee for the service thereof has been paid, where necessary, but as soon as the process fee is paid, a receipt in the form contained in the appendix to these rules shall be granted by the official receiving the same and thereafter the court-fee shall be placed on the record of the case and immediately punched.

Action on default. 4. Process fee tendered after the expiration of the period fixed in rule 2 shall be refused unless it is accompanied by an application, duly stamped with Rs.2.65 Paise Court fee under Article 1 (d) (iii) of Schedule-II to the Court Fees Act, 1870, and giving reasons for tendering process fee late.

Ibid 5. On the presentation of such application, the Registrar may, when he is satisfied that service of process can be effected before the date already fixed for hearing, accept the process fee so tendered and cause notice be issued for the day of hearing already fixed. Where the Registrar is of opinion that service can not be effected before the date of hearing, he will cause the application to be laid before a Judge for orders as to acceptance of belated process fee and the fixing of a fresh date of hearing.

Action on default. 6. (1) In the event of process fee not being paid and no application as provided in rules 4 and 5 being made, the cause will be listed for a date soon after the original date of hearing before a Single Judge or a Division

Bench as the case may be, for disposal according to Order 9, rule 2 or Order 41, rule 18, of the Code, or otherwise as the Court may order.

(2) Without prejudice to the provisions of sub-rule (1), in cases for the issuance of directions, orders or writs, where the Court grants any *ex parte* stay order, injunction or direction in favour of a party with notice to the other side and any process fee is required to be paid for the issuance of the notice, the stay order, injunction or direction as the case may be, shall not be issued until the process fee has been paid.

APPENDIX

High Court of Himachal Pradesh.....

Process fee Receipt

Received on(date) court fee stamp of the value of
Rupees.....in case No.....
in reversus.....

Signature of the Receipt Clerk
(Judicial Branch).

B. SERVICE OF NOTICES :

1. unless otherwise ordered, every notice issued in respect of proceedings in the High Court shall be sent in the first instance to the address of the respondent given in the memorandum of appeal or petition, as the case may be, by means of registered post, prepaid for acknowledgement. An acknowledgement purporting to be signed by the respondent shall be deemed to be sufficient proof of service of such notice :

Provided that a notice issued in respect of the following proceeding shall, in the first instance, be sent through Courts :—

- (i) Injunction.
- (ii) Notice to a proposed guardian *ad litem* :

Provided further that the court may, in addition to the service of notice in the manner as aforesaid, whether in the first instance or subsequently, order service of notice privately also, by registered post prepaid for acknowledgement of such service of notice, together with an affidavit of such service.

An acknowledgement purporting to be signed by the respondent or respondents, as the case may be, filed together with an affidavit of service, shall be deemed to be sufficient proof of service or notice in the proceedings.

2. When, in an appeal or petition of revision, appearance has been entered by a practitioner for a respondent, before the notice of appeal is served on him, a copy of the notice shall be served by the Registrar on the practitioner immediately on his entering appearance.

3. (1) In any appeal, or other proceeding institute in the High Court before the disposal of the main proceeding in the Subordinate Court notice shall be served on the practitioner who represents the party in the

main proceeding in the Subordinate Court whose address must be furnished by the appellant/petitioner and such service on such practitioner shall be deemed to be sufficient proof of service on such party in the proceedings. Where a party is not represented by a practitioner in the main proceeding, notice shall be served on the party direct.

(2) Where the practitioner on record for a party declines to receive such notice, the case shall be posted before Court for orders.

4. (1) Where the Court is satisfied that there is reason to believe that the respondent is keeping out of the way for the purpose of avoiding service, or that for any other reason the notice can not be served in the manner above stated, the court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the court house, and also upon some conspicuous part of the premises in which the respondent is known to have last resided or carried on business or personally worked for gain or in such other manner as the Court thinks fit.

(2) Service substituted by order of the court shall be as effectual as if it had been made on the respondent personally; and

(3) Where service is substituted by order of Court, the court shall fix such time for the appearance of the respondent as the case may require.

5. Where the Court acting under sub-rule (1) of Rule 4 orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the respondent is, last known to have actually and voluntarily resided, carried on business or personally worked for gain.

CHAPTER II

A. PREPARATION OF PAPER BOOKS IN FIRST APPEALS AND ORIGINAL SIDE APPEALS :

Preparation of paper books in the first appeal from orders.

1. In regular first appeals and original side appeals from orders admitted to a hearing, a typed/cyclostyled/photostat paper book shall be prepared :

Provided that the Court may, either on its own motion or on the application of any of the parties to the appeal, dispense with the preparation of the paper book.

Preparation of paper books in the first appeals from decrees.

2. In regular first appeals and original side appeals from decrees admitted to a hearing, a typed/cyclostyled/photostat paper book shall be prepared only when a specific order is passed in the Court.

3. In the absence of an order to the contrary, the paper book under rules 1 and 2 shall consist of :—

Contents of paper book.

- (i) the pleadings of the parties and issues;
- (ii) the transcript of the evidence of the witnesses, translated in to English, if in vernacular;
- (iii) the judgment and decree;
- (iv) the grounds of appeal;
- (v) the order of the Bench admitting the appeal;
- (vi) documents allowed to be included by an order under rule 6.

4. Any part of the record not included in the paper book under Rule 3 may be referred to at the hearing with the permission of the court.

Record not included in the paper book may be referred to at the hearing.

5. (i) The Court, may, either on the application made by the appellant within 30 days from the date of the admission of the appeal or on the application of the respondent within 30 days from the date of service of notice of the appeal, permit the inclusion in the paper book all or any of the documents duly proved by either party in the trial Court after being translated into English, if in vernacular.

Applicant for inclusion of documents in the paper book and cost of typing.

(ii) The cost of including the documents specified in rule 3(i) to (v) shall be borne by the appellant and paid as provided for in rules 9 and 10.

(iii) The cost of including the documents specified in rule 4 (vi) shall be borne by the party at whose instance they are so included, the cost being shared equally where a document is included at the instance of more than one party. The cost shall be paid within 30 days from the date of order under sub-rule (i).

6. All documents included in the paper book shall be typed/cyclostyled or photostated according to Chronological order, first those produced by the plaintiff and then those produced by the defendant. On each document shall be endorsed the order by, and date on, which it was admitted by the trial court :

Order of documents in the typed/cyclostyled or photostated paper book.

Provided that when counsel for both the parties agree that the documents should be arranged for convenience in a different order, the document shall be typed/cyclostyled or photostated in the order. In that case, a foot note shall be added on the first page of the volume of documents that the documents have been typed/cyclostyled or photostated in the order suggested by counsel for the parties.

7. Vernacular documents typed by desire of parties under Rule 6 shall ordinarily be translated and not transliterated, unless especially desired by the party at whose instance they are included in the typed/cyclostyled or photostated record.

Translation of vernacular documents.

Initial deposit by appellant.

8. In every appeal in which under these rules a paper book has to be prepared, the appellant shall, with his appeal, attach a receipt for a sum of one hundred rupees which should be deposited with the Treasurer of the High Court to cover the cost of typing the record. No first appeal from a decree shall be received unless it is accompanied by such receipt.

Exception.—This rule does not apply to an appeal filed by an indigent person in which case the applicant will be required to pay the approximate cost of printing or copying of such portion of the record as the Judge admitting the appeal may under rule 2 of this Chapter, order.

Further deposits.

9. (a) If the deposit required under Rule 9 proves insufficient to cover the cost of that part of typed/cyclostyled or photostated paper book which is to be borne by the appellant, the Registrar may, by a notice in writing, require that such further deposit as seems to him necessary shall be made within one month.

(b) If such further deposit be not made within one month of the date of receipt of the notice, the appeal shall, on the expiry of that period, be laid before a Judge for orders who may, in his discretion, grant further time or dismiss the appeal. The Judge may further, in his discretion discharge or modify any *ad interim* orders passed earlier in the case. The case shall be laid before a Judge for orders every time the default is repeated. If the default is made by the respondent, then the Judge may pass an order that the paper book be prepared according to appellant (s) list or he may pass such other orders as he thinks fit.

Note.—If the total sum required as deposits under rules 9 and 10 exceeds Rs. 200 the matter will be reported for the orders of a Judge.

Period for further deposit may be enlarged.

10. The period fixed by Rule 9 for the payment of the deposit may, on cause being shown in an application duly stamped, be enlarged by an order of the court so as to permit the amount of such deposit to be paid by instalments.

Number of paper books to be prepared.

11. In the absence of a special order in any particular case, six copies of the record shall be prepared.

Supply of copies of paper books to the parties.

12. The appellant and respondent may each obtain one copy of the typed/cyclostyled/photostated paper book free of charge and one additional copy free of charge for each advocate employed in excess of one. Additional copies, if available, may be purchased at such rate as may be prescribed from time to time.

Copies to be supplied before bearing.

13. Parties and Counsel shall be entitled to receive copies of the paper book on application to the Registrar at least one month before the date fixed for hearing.

14. (a) At the foot of every paper book shall be noted the amount of the typing/cyclostyling/photostating and incidental charges, and the party from whom levied, and such amount shall be included in the costs of the appeal unless the court shall in any case otherwise direct.

Typing expenses to be included in costs.

(b) Should the amount so charged be less than the sum or sums deposited under Rules 5, 6 and 9, the Registrar shall refund the unexpended balance to the party by whom the deposit was made. Should it be more he will take action under Rules 9 or 10.

Refund of balance of cost.

15. The Registrar may and, if so required by either party by petition duly stamped shall refer to the Court and matter not herein expressly required to be referred.

Matters to be referred to court.

16. For the purposes of these rules, when an order of the Court is required, the order of one Judge shall be sufficient and such order, subject to reconsideration by the Bench hearing the appeal, be conclusive.

Reference to be dealt with by one Judge.

17. (a) When an order has been made by a Division or Full Bench, under Order XLI, Rule 25 or Rule 27 of the Code in an appeal to which these rules have been applied, and additional evidence has been taken in pursuance of such order, such number of sets of typed/cyclostyled/photostyled paper book be prepared of (i) the order made under order XLI, Rule 25 or Rule 27 of the Code, and (ii) the proceedings taken thereunder or any part thereof as may be required for the use of the Bench.

Supplementary typed/cyclostyled or photostated paper book.

(b) The Court may by order/direct, by which party or parties the expenses of preparing the supplementary record or of any part thereof shall be borne in the first instance.

18. Pending appeals shall be completed for hearing in accordance with the rules as amended. The amount deposited by a party to cover the cost of preparation of a typed/cyclostyled or photostated paper book, shall be refunded to it to the extent it has not been utilised for the purpose.

Applicability of amended rules to the pending appeals.

SCHEDULE-A

Index of the papers included in the paper book.

First Appeal No.....of
(Name).....(Plaintiff or Defendant)—
Appellant.

(Name).....Defendent or Plaintiff
Respondent.

Sl. No.	Date of the document etc.	Description of the documents, etc.	Page
1	2	3	4
		1. Petition of Plaintiff.	
		2. Written statement of defendants.	
		3. Plaintiff's replication to above.	
		4. Defendants' rejoinder to above.	
		5. Issues.	
		6. Plaintiff's oral evidence (each witness by name).	
		7. Defendant's oral evidence (each witness by name).	
		8. Notes of the arguments advanced by the parties.	
		9. Judgement of the trial Court.	
		10. Petition of appeal to the High Court.	
		11. Order of the Judge admitting the appeal to a Bench.	
		12. { Documents referred to in the plaint or considered in the judgment or duly proved by either of the parties in the trial Court.	

N. B.—Intermediate orders of the Court should be inserted in chronological order as they occur.

SCHEDULE-B

The work of transcribing, transliterating, translating and typing the record will be charged for at the following rates under Rules 5 and 9:—

	Rs.	P.
Transcribing the record, per 1,000 words	..	2.25
Transliterating the record, per 1,000 words	..	4.00
Translating and revising the record, per 250 words or part thereof.	..	2.50
Typing and revising the record, per 1,000 words	..	2.50
Typing/Cyclostyling or photostating charges of the record (six copies) to be prepared in 2 sets of the 3 copies each at the rate of per 1,000 words or part thereof	..	5.00

B.—THE PRINTING OF PAPER-BOOKS IN SECOND APPEALS AND REVISIONS:

1. Typed/Cyclostyled paper-books shall be prepared in all the second appeals which are referred for hearing before a Division Bench unless the Single Judge referring the case to the Bench or the Bench to which the case is referred expressly orders, that the record shall be printed. In all other cases, typed/cyclostyled paper books shall be prepared only if express order to that effect is made at the time appeal is admitted for hearing."

Paper-books when to be printed.

2. The paper-book shall consist of:—

Contents.

- (a) copies or translations of the judgments of the lower Courts and the decree of the Lower Appellate Court ;
- (b) the grounds of appeal or revision and a memorandum of the names of the parties or, if the appeal or revision was filed in vernacular, a translation thereof; and
- (c) a copy of the order of the Judge admitting the case to a Bench.

3. (1) In every appeal in which the Paper Book as under these rules to be printed, the appellant shall, within fifteen days of the date of the order directing such printing, deposit in the Accounts Branch of the High Court a sum of rupees one hundred and fifty to cover the cost of the paper-books at the rates specified under the schedule. In the case of cross appeals, the cost of Paper-book shall, however, be paid by the parties in proportionate of the amount involved unless a Judge otherwise directs.

Cost of printing paper-book.

(2) An additional sum of Rs.10 for translating the plaint and pleas shall be similarly deposited in every case in which the plaint and the pleas are to be included in the paper-book. The plaint and pleas shall not, however be printed except at the express request of the parties or their counsel, or, when so directed by the Judge or Judges.

4. If the appellant or respondent fails to deposit the sum or sums required under rule 3 within the prescribed period the procedure laid down in clause (b) of Rule 9 (6) of Part A of this Chapter shall be followed.

Procedure on non-payment of deposit.

5. Such number of copies of the paper-book shall be printed as the Court may, by general rule in that behalf or special order in a particular case, direct.

Number of copies to be printed.

Note.—The number of copies ordinarily to be printed has been fixed at ten enough copies shall be printed to enable junior the case to be provided with a paper-book.

6. Each appellant and the respondent appearing separately may obtain two copies of the printed paper-book free of charge, and additional copies, if available, may be purchased at three rupees a copy.

Supply of copies to parties.

7. (1) At the foot of every printed paper-book shall be noted the amount of printing and other charges, and the party from whom levied, and such amounts shall be included in the costs of the appeal, unless the Court shall in any case otherwise direct.

Printing or expenses to be included in costs.

(2) Should the amount so charged be less than the sum or sums deposited under rule 3, the Registrar shall refund the unexpended balance to the party by whom deposit was made. Should it be more, he will take action under rule 4.

8. For the purpose of rules 3 to 7, the expression "Appeal" shall include a petition for revision admitted to a hearing before a Division Bench or referred to a Full Bench and the expression "Appellant" shall include a petitioner in the revision petition.

Interpretation.

SCHEDULE (referred to in rule 3)

The work of transcribing, transliterating, translating and printing the record will be charged for at the following rates under rule 3:—

	Rs. P.
Transcribing the record, per 1,000 words ..	2.25
Transliterating the record, per 1,000 words ..	4.00
Translating and revising the record, per 250 words or part thereof. ..	2.50
Typewriting and revising the record, per 1,000 words ..	2.50
Typewriting charges of the record (six copies) to be prepared in 2 sets of 3 copies each at the rate of per 1,000 words or part thereof. ..	5.00

C—THE TRANSLATION OF CERTAIN VERNACULAR DOCUMENTS PRESENTED TO THE HIGH COURT

What documents to be translated and at whose expense.

1. Such vernacular documents filed in the High Court in its civil appellate or civil revisional, civil writ jurisdiction, as may from time to time be prescribed by the Court* shall be translated, and, subject to Rule 4, the expense of such translation shall be paid by the appellant or petitioner.

Agency for translation and scale of charges.

2. The translation shall be made and certified by such agency as the Court may from time to time appoint, and the maximum total charges shall not exceed rupees ten for one thousand words.

Initial deposit.

3. (1) On the admission of an appeal, revision petition or civil writ petition, to a gearing, the appellant or the petitioner shall deposit within a period of 15 days from the date of such admission; the amount required to defray the cost of translation of the vernacular documents, if any.

(2) If the deposit under sub-rule (1) is deemed insufficient to cover the cost of translation, the Registrar may, by a notice in writing, require that such further deposit as seems to him necessary shall be made within 15 days of the service of notice.

(3) If the deposit under the foregoing rules be not made within the period prescribed, the case shall, on the expiry of that period, be laid before a Judge

*The following vernacular documents are required to be translated :—

1. Annexures to memorandum of appeal or petition.
2. Copies of decrees, judgments or orders.
3. Returns to orders of remand of the High Court.
4. Deed of compromise.
5. Such other documents as are relied on by the parties.

for orders who may, in his discretion grant further time or dismiss the appeal or the revision or the writ petition. The Judge may further in his discretion discharge or modify any *ad-interim* order passed earlier in the case. The case shall be laid before a Judge every time the default is repeated.

(4) The Registrar shall refund the deposit or the unexpended balance to the party by whom the deposit was made, in those cases which are disposed of by compromise or otherwise, before the translation of the vernacular documents or where this deposit exceeds the actual charges.

CHAPTER-12

A. APPEALS TO THE SUPREME COURT

(A) CIVIL APPEALS

1. (a) A petition for leave to appeal to the Supreme Court shall comply with the requirements of Rule 3 (1), Order XLV of the Code and contain the following particulars:—

Form and contents of petition for leave to appeal to the Supreme Court.

- (i) the name and address of each petitioner;
- (ii) the name and address of each person whom it is proposed to make a respondent;
- (iii) the Court which, and the name of the Judge or Judges by whom the decree, complained of, was made;
- (iv) the date when such decree was made;
- (v) the value of the subject-matter of the suit in the Court of the first instance;
- (vi) the value of the subject-matter in dispute in appeal; and
- (vii) the relief sought by such petition and shall be signed by the petitioner or by same Advocate or Bakil on the rolls of the Court on his behalf.

Explanation.—For purposes of clauses (v) and (vi) it shall be necessary to state how the value of the subject-matter has been arrived at.

(b) Every petition together with its enclosures, if any, shall be accompanied by three typed copies of the same for the use of the Court. The typed matter shall be in double spacing legible and on one side of the paper.

(c) An application for a certificate required in a Civil case under clause (1) of Article 132 or clause (1) of Article 133 of the Constitution shall be filed subject to the provisions of sections 4, 5 and 12 of the Limitation Act, 1963 (Act No. 36 of 1963) within 60 days from the date of the judgement or decree or final order of the High Court.

Time for an application for a certificate in a Civil case under article 132 (1) or article 133 (1) of the Constitution.

(d) Such application shall be treated as urgent.

Notice to
issue on
the appli-
cations.

2. (a) When a petition is made, the Registrar, shall, unless the petition is dismissed at the preliminary hearing, cause notice thereof to be given to the opposite party in accordance with Order XLV Rule 3 (2) of the Code. The notice shall be in form A appended.

(b) The certificate if granted by the Court, shall be in form B appended to these rules.

(c) On receipt from the Supreme Court of the petition of appeal, the Registrar shall :—

- (i) cause notice of the lodgement of the petition of appeal to be served on the respondent personally;
- (ii) unless otherwise ordered by the Supreme Court, transmit to the Supreme Court, at the expense of the appellant the original record of the case; and
- (iii) as soon as notice as aforesaid is served, to send a certificate in form C as the date or dates on which the said notice was served.

3. Where certificate has been given under clause (1) of article 13 or clause (1) of article 133 or under article 135 of the Constitution, the party concerned shall take positive steps in the Supreme Court for the filing and prosecution of the appeal as provided in the Supreme Court Rules, 1966, (Appendix-1).

4. (a) Where the proceedings from which the appeal arise in the Supreme Court were... in the Courts below in a language other than English, the Registrar shall within three months or soon thereafter from the date of the service on the respondent of the notice of the petition or appeal, transmit to the Supreme Court in triplicate, a transcript in English of the record of the appeal, one copy of which will be duly authenticated. The provisions contained in rules, 15 to 20 of the Supreme Court Rules of 1966, shall apply to the preparation and transmission of such transcript record.

(b) Where the record is directed by the Supreme Court to be prepared under the supervision of this Court, the Registrar shall proceed to complete the preparation of the record in accordance with the provisions of Rules 15 to 25 of the Supreme Court Rules, 1966 and the rules contained in Schedule 'A'.

Deposit
for draw-
ing up an
estimate.

5. In case the record for the Supreme Court has to be prepared by the High Court, the Registrar, shall as soon as the index of the record is settled, require the appellant to deposit within a week a sum of Rs.16 for drawing up the estimate of the expense to be incurred for the preparation of the record in accordance with the rates prescribed in Schedule B provided that it shall be at the discretion of the Registrar to dispense with the estimate and to allow the petitioner to deposit such amount on account of expenses as may, under the circumstances of the case be reasonable.

Arrange-
ment and
index of
printing
record.

6. As soon as the transcript or printed record complete, it shall be arranged, as far as possible, in chronological order, and a complete index of all papers, documents and exhibits in the cause, with a list showing those which have been omitted from the transcript or printed record shall be prepared under the orders of the Registrar within a period of one month.

7. When the record has been made ready, the Registrar shall :—

Despatch of Record to the Supreme Court.

(i) at the expense of the appellant transmit to the Registrar of the Supreme Court such number of copies as the Supreme Court may direct, or in the absence of any special direction in this behalf 20 copies of such record, one of which copies he shall certify to be correct by signing his name on, or initialling every eighth page thereof and by affixing thereto the seal of the Court :

(ii) give notice of the despatch of the record to the parties through the Senior Sub-Judge of the District concerned ; and

(iii) when the Senior Sub-Judge has intimated the service of notice on the parties, send to the Registrar, Supreme Court, a certificate in manuscript in (Form D appended to these rules) as to the date or dates on which the notice or notices under the preceding sub-clause (ii) was or were served.

8. The period is prescribed in Rules 4 and 5 may for sufficient reasons be extended under orders of the Court.

Extension of period for completion of the record.

9. If an appellant fails to take any interest in the appeal within the time fixed for the same under these rules, or if no time is specified it appears to Registrar that he is not prosecuting the appeal with due diligence the Registrar shall report the matter to the Supreme Court.

Duty of Deputy Registrar to take action if the appellant is not diligent.

10. For the purpose of these rules, where the orders of the Court are required, the order of one Judge shall be sufficient. The Registrar/Joint Registrar/Addl. Registrar delegate his duties to the Registrar or other officer of the court not below the rank of Assistant Registrar.

Order of a single Judge sufficient.

11. The Registrar may, under the orders of the Court, delegate any of the duties which devolve upon him under these rules, to the Registrar or other Officer of the Court not below the rank of Assistant Registrar.

12. A notice which it is necessary to serve under these rules or under Order XLV of the Code may, be served in the manner provided by the Code for the service of notices, or upon an Advocate or Vakil who has appeared for the party to whom notice is to be given.

Mode of service of notices.

13. The aforesaid Rules shall apply *mutatis mutandis* to appeals under Article 135 of the Constitution.

Appeal under Article 135 of the constitution.

(B) CRIMINAL APPEALS :

Time for an application for a certificate under article 132 (1) or for a certificate under article 134 (1) (c) of the Constitution.

1. (i) An application for a certificate required in respect of a criminal proceeding under Article 132 (1) or for a certificate under Article 134 (1)(c) of the Constitution shall be filed subject to the provisions of section 4, 5 and 12 of the Indian Limitation Act, XXXVI of 1963 within 60 days from the date of judgment or order of the High Court.

(ii) Every application under this rule presented by an Advocate shall be signed by him and he shall certify, that the grounds contained therein are good and sufficient grounds for a certificate and the case is a fit one for moving the Supreme Court.

(iii) Such applications shall be treated as urgent.

Printing of record in Criminal Appeals.

2. The record of the appeal shall be printed in accordance with the rules contained in schedule-A to these rules. The record shall be printed at the expense of the appellant unless otherwise ordered by the Supreme Court. In appeals involving sentence of death and in such other cases in which Supreme Court thinks fit so direct, the record shall be printed at the expense of the Government.

Despatch of records in Criminal Appeals.

3. (1) As soon as the record has been got ready, the Registrar of the Court shall despatch to the Registrar of the Supreme Court not less than fifteen copies, where the appeal raises a question as the interpretation of the Constitution and not less than 10 copies on other cases.

(2) In all cases involving a sentence of death, where a sufficient number of copies of the printed record of this Court are available, they shall be despatched to the Supreme Court along with such additional records as may be necessary as soon as these are printed and where the record is to be printed a fresh for the Supreme Court appeal the printed record shall be made ready and despatched to the Supreme Court within a period of sixty days after the receipt of the intimation from the Registrar of the Supreme Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

4. As soon as the record is ready the Registrar of this Court shall give notice thereof to the parties to the appeal, and where the record is prepared under the supervision of the Registrar of this Court, he shall after service of the notice, send to the Registrar of the Supreme Court a certificate as to the date or dates on which the notice has been served.

Rules applicable in Criminal Appeals.

5. So far as may be the Rules in this Chapter relating to Civil Appeals shall, with the necessary modifications and adaptations, apply to Criminal Appeals.

6. A list shall be maintained showing the numbers and dates of all pending Supreme Court Appeals in various stages of preparation and the Registrar shall examine every quarter all such appeals in arrears and call on appellant who may be responsible for the delay to show cause before the Court why the appeal should not be dismissed for want of prosecution.

List of pending appeals.

7. In printing the record of Criminal Appeals, the procedure laid down in these rules for Civil Appeals shall be followed.

FORM A

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Notice to show cause why a certificate of appeal to the Supreme Court of India should not be granted (Order XLV, Rules 3)

TITLE

To

.....
.....
.....
.....

Take notice that.....has applied to this Court for a certificate that as regards amount of value and nature the above case fulfils the requirements of section 110 of the Code of Civil Procedure, 1908, or that it is otherwise fit one for appeal to the Supreme Court of India.

Theday of..... is fixed for you to show cause why the Court should not grant the certificate asked for.

Given under my hand and the seal of the Court this..... day of

Registrar.

FORM B

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Civil Miscellaneous Case No.....

..Petitioners

..Appellants

.....

(Plaintiff)
(Defendants)

Versus

(Plaintiffs)
(Defendants)

Respondents

Claim.....
.....

Petition under Order XLV, Rule 2 of the Code of Civil Procedure (Act V of 1908) for leave to appeal to the Supreme Court of India, from the order of the High Court of Himachal Pradesh at Shimla dated the..... day of

On the application of the petitioners above-named it is hereby certified that the case above set forth fulfils in our opinion, the requirements of sections 110/109 of the Code of Civil Procedure (Act V of 1908), as regards its fitness for appeal to the Supreme Court of India for reasons stated in our order, dated..... a copy of which is attached.

Dated this..... day of

.....
.....

Judges.

FORM C

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMA

Civil Miscellaneous Case.....

Supreme Court Appeal No.....of.....

.....Appellant

Versus

.....Respondent.

Certified that the.....Judge of.....has reported that copy/copies of petition of appeal filed by the appellant in the Supreme Court of India has/have been served on the respondent on the date/dates as stated below:

Date this.....day of.....

*Deputy Registrar,
High Court of Himachal Pradesh at Shimla.*

FORM D

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Civil Miscellaneous Side No.

Supreme Court Appeal No.....of.....

.....Appellant

Versus

.....Respondent.

Certified that the..... Judge of..... has reported that notice issued to the appellant and the respondent informing them of the despatch of the printed record of proceedings of the above case to the Registrar of Supreme Court of India have been served on the parties.

*Deputy Registrar,
High Court of Himachal Pradesh at Shimla.*

SCHEDULE-A

[referred to in rule 4 (b)]

Rules as to Printing

I. All records and other proceedings in Appeals or other matters pending before the Supreme Court of India which are required by the above Rules to be printed shall be printed in the form known as *Demy Quarto* on both sides of the paper with single spacing.

II. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8 1/2 inches in width.

III. The type to be used in the text shall be pica type, but Long Primer shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.

IV. Records shall be arranged in two parts in the same volume where practicable viz.—

PART-I

The pleading and proceedings the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the Courts below, down to the Order admitting the Appeal.

PART-II

The exhibits and documents.

V. The Index to Part I shall be in chronological order and shall be placed at the beginning of the Volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part-I.

VI. Part-I shall be arranged strictly in chronological order, i. e. in the same order as the Index.

Part-II shall be arranged in the most convenient way for the use of the Supreme Court of India as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. Each documents

shall show its exhibits mark, and whether it is a Plaintiffs or Defendant's documents (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as:—

- (a) a series of correspondence, or
- (b) proceedings in a suit other than the one under appeal shall be kept together. The order in the Record of the documents in part-II will probably be different from the order of the Index and the proper page number of each document shall be inserted in the (Printed Index).

The parties will be responsible for arranging the Record in proper order for the Supreme Court of India and in difficult cases Counsel may be asked to asked to settle it.

VII. The documents in Part-I shall be numbered consecutively. The documents in Part-II shall not be numbered, apart from the exhibit mark.

VIII. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index, without the date.

IX. Each document shall have a heading which shall be repeated at the top of each page over which the document extends viz:—

PART-I

- (a) Where the case has been before more than one Court, the short name of the Court shall first appear, where the case has been before only one Court, the name of the Court need not appear.
- (b) The heading of the document shall then appear consisting of the number and the description of the document in the Index, with the date, except, in the case of oral evidence.
- (c) In the case of oral evidence, "Plaintiffs evidence" or "Defendant's evidence" shall appear next to the name of the Court and then the number in the Index and the witness's name with "examination", "cross-examination", or "re-examination", as the case may be.

SCHEDULE-B

(referred to in rule 5)

Charges in respect of the matters provided for in the Supreme Court Appeal Rules.—

	Rs. P.
Estimate of costs	25.00
Preparation of list of papers per 10 entries or part of 10 entries	1.50

	Rs.P.
Report on agreement or disagreement of parties as to omission, for each entry ..	0.10
Translation of vernacular papers per 1,000 words ..	10.00
Revision of vernacular papers per 1,000 words ..	6.00
Transcribing record, per 1,000 words ..	1.75
Examining and certifying per 1,000 words ..	1.00
Chronological index, per 10 entries or part thereof .	3.00
Cost of preparation of the transcript records (in duplicate or triplicate) per, 1,000 words or part thereof .	5.00

Note.—(a) Translation including the reading of the translated documents to Examiners.

(b) The above charges are subject to alterations by Order of the Court.

Part-II

The word "Exhibit" shall first appear and next to it the Exhibit mark and the description of the document in the index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

X. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the Record), if desired, with the words "not printed" against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed in full, unless counsel so advises, but the parties shall agree to short extracts being printed as specimens.

XI. In cases where maps are of an inconvenient size or unsuitable in character, the Appellant shall, in agreement with the respondent, prepare maps drawn properly to scale and of reasonable size showing as far as possible, the claims of the respective parties, in different colours.

CHAPTER-13

RECORDS—THEIR INSPECTION, AND GRANT OF COPIES

A—THE INSPECTION OF RECORDS

1. The inspection of records of decided cases will be allowed only under the orders of the Registrar.

Inspection of decided cases.

2. Records of pending cases will be open, as of right, to the inspection of parties or their authorised agents or any Advocate of the Court, who is duly authorised to act in the case. Provided that the inspection of a record will not be permitted on the date fixed for hearing without the special order of the Judge or one of the Judges before whom the case is pending.

Inspection of pending cases by parties or agents.

Access to record. 3. With the exception of the persons above mentioned no one will be allowed access to the record of a pending case without the special order of a Judge.

Court-fee on application for inspection. 4. Applications under Rules 1 and 3 shall be made by petition only stamped with a court-fee label of Rs 2. Other applications for inspection shall be in writing on a printed form to which must be affixed a court-fee label of the value prescribed below:—

(a) If ordinary inspection is desired, a court-fee label of Rs. 2/-.

(b) If urgent inspection is desired a court-fee label of Rs. 5.

Note.—(1) No fees should be charged for the inspection of records in Civil and Criminal cases by the Advocate-General or the Public Prosecutor, as such, or by a counsel appearing for Government in Civil and Criminal cases or by counsel appearing for accused or appellant in cases where the latter is indigent person or is defended by counsel provided at Government expense.

Note.—(2) No fee shall be charged for inspection by parties and counsel in Criminal cases but fees will have to be paid in case of a:—

(a) second inspection of the same record, or

(b) inspection on the day the application for inspection is made.

Contents of application, and when to whom to be presented. 5. Application must distinctly specify the record of which inspection is desired and shall be presented to the Registrar.

(a) when ordinary inspection is desired, between the hours of 10 A. M. and 3 P. M. ; and

(b) when urgent inspection is desired on the same date, between 10 A. M. and 11 A. M.

Hours of inspection. 6. The Registrar will arrange to procure the record of which inspection is desired, and will allow inspection.

Copying in pen and ink marking not allowed. Taking of copy and notes in pencil allowed. 7. (i) No mark shall be made on any record or paper inspected. The copying of any document or portion of the record is strictly prohibited. However, the party or his counsel can make a memorandum of the date, the nature of the document and the names of the parties thereto. Any person infringing or attempting to infringe the rule shall be liable to be deprived of the right to inspect records for such period as the Judges may think fit.

Inspection of records on a single fee. (ii) Except in the case of connected records, inspection of which has been permitted for a single fee, access will be permitted to the record of one case only at a time.

8. The fee provided in Rule 4 shall entitle the applicant to inspect the record on one day only. If inspection of record is desired on another day, a fresh application shall be required and a fresh fee paid

Inspection of records for more than one day.

9. Police papers received in the Court in connection with any pending criminal case, and translation of such papers shall not be available for inspection, either by the convict or accused or by his agent or by any legal practitioner retained on his behalf.

Inspection of police papers prohibited.

10. All application bearing a Court-fee label of Rs. 5 shall be dealt with by the office at once. All ordinary applications shall be dealt with in the ordinary course of business.

Ordinary and urgent applications how dealt with.

11. When any records are in the custody of the High Court the Registrar of the High Court, on being informed by the Government that an appeal against acquittal is contemplated shall hand over the required record to the Advocate-General on demand during such period as they are not required for the purposes of the appeal.

Inspection by Advocate General of certain records for purposes of filing appeal against acquittal.

12. In order to trace particulars of a suit or document, counsel may, with the previous permission in writing of the Registrar inspect Civil and Criminal registers of the Court on behalf of parties, free of charge.

Inspection of registers free of charge.

13. Any inspection of records and registers under the above rules shall be only in the presence of a court official.

14. Nothing in these rules shall entitle any person to inspect:—

- (i) the Judges notes and minutes;
- (ii) Correspondence not strictly judicial and
- (iii) confidential correspondence.

B—THE GRANT OF COPIES OF RECORDS

(i) *Persons entitled to copies :*

1. A copy or translation of a judicial record may be granted in the manner prescribed by these rules to any person who is legally entitled to receive it.

Copy to be granted to person entitled.

Party entitled to copies of records and exhibits.

2. (i) A party to a suit or appeal is entitled, at any stage of the suit or appeal, to obtain on payment copies or the record of the suit or appeal, including exhibits which have been put in and finally accepted by the Court in evidence.

(ii) A stranger to the proceeding may at any time obtain copies or plaint, memorandum of appeal, written statements, affidavits and petition filed in the suits on the appeal on payment only with the express permission of court in writing granted on a petition supported by an affidavit.

Grant copies of exhibit strangers.

(iii) A stranger to the suit or appeal has no right to obtain copies of exhibits put in evidence, except with the consent of the person by whom they were produced or under the orders of the Court.

Grant of translation.

(iv) Any person entitled to obtain a copy of a judicial record may apply for a translation thereof.

(ii) *Application for copies and translation of record:*

Mode of presenting.

3. (i) Copies or translation of judicial record of the High Court will be supplied on application made to the Court.

Note.—Every such application shall bear a Court-fee label of Rs. 1.50.

(ii) Every such application may be presented in the ordinary course in the Registry.

(iii) The application for obtaining Urgent Copy of order shall be made to the Reader of the Court, pronouncing the judgment or order, as the case may be, on a plain paper bearing a Court fee label of Rs. 250 immediately after the Judgment or order is pronounced and when the record is still available with him.

Note 1.—The Reader concerned shall send the application to the branch concerned alongwith the file. The branch will in turn arrange to deliver the file as also the application to the Copy Branch immediately on its receipt from the Reader of the Court concerned.

Note 2.—The copying Agency shall receive the charges due in respect of the copy from the applicant in advance between 12.00 noon and 1.00 P.M. the same day and issue him a receipt for the charges received and indicate on the receipt the date when applicant should turn up to obtain the copy.

Contents or particulars.

4. Every application for a copy of translation shall contain the following particulars, namely:—

(a) the name of the cause;

(b) if the cause is pending; the date of institution thereof, and the date fixed for hearing; if any;

- (c) if the cause has been decided, the date of decision ;
- (d) where the information referred to in clauses (b) and (c) is not available to the applicant, such other information as may be sufficient to enable the cause to be identified and traced ;
- (e) the nature of the document, a copy of translation of which is required ;
- (f) in the case of a copy, whether for private for general use ;
- (g) the name and full postal address of the applicant.

5. An application which is not in proper form shall be returned for amendment to be represented within a time limit of seven days and in case the application is not represented within the period specified above, it shall be struck off.

6. Every day a list showing the applications in which the records have been received, and the number of stamp papers required in each case shall be prepared and affixed to the notice board of the court between the hours of 3 and 4.30 P.M. Such lists shall remain on the board for three clear working days. Applications upon which the requisite stamps have not been deposited shall be struck off the list. After the expiry of the period prescribed for deposit of stamps the list shall be taken down and filed in the record for one year and shall then be destroyed.

If the required stamp papers have not been deposited by 3 P. M. on the fourth working day counting from and including that on which the list was first affixed, the application shall be struck off and, unless it is restored on an application made to the court for the purpose, copies shall be granted only on a fresh application.

7. Any application for copies struck off under rule 5 or under rule 6 *supra* may be restored by the Court on a petition supported by an affidavit preferred for that purpose.

The petitioner shall deposit the required copy stamps alongwith the petition for restoration of the application for copies.

Every certified copy, furnished after such restoration of the application for copies, shall bear an endorsement showing, in addition to the details specified in rule 15 *supra* :

- (1) The date on which the application was struck off.
- (2) The date on which the application was restored to file.

8. (i) Consolidated fees shall be charged for attested copies according to the following scales :—

		Rs.	P.
(a) English copy First 300 words or under	..	1.00	
Every additional 200 words or under	..	0.75	
(b) Vernacular copy ;			
First 300 words or under	..	1.00	
Every additional 200 words or under	..	0.75	

- | | | |
|-----|--|------------------------------|
| (c) | Copies of judgments supplied for purposes of reporting to the reporters of private Law Journals which undertake to publish only judgements approved for reporting | Rs P.
.. 5.00 (per copy). |
| (d) | Copies of judgments supplied for purposes of reporting to the authorised representatives of newspapers which give an undertaking that copies so supplied will be used only for reporting such copies to be stamped "for reporting only." | .. 3.00 (per copy). |

Copying fee for maps etc.

(ii) For field maps, boundary maps, tabular work and similar work, a special fee, which must always be a multiple of 25 N.P. shall be fixed by Deputy Registrar.

Fees to include cost of papers.

(iii) The above fee shall include the cost of the paper which will be supplied by Government.

(iv) Urgent copies shall be supplied at the rate of Rs. 5 as urgent fee and Rs. 2 per page of the material covered.

On vernacular copy the same charges as above.

Note.—For the above purposes the extra fee to be charged shall be for each paper copies which can properly be regarded as a separate paper e.g. every deposition of the witness or written statement of a party or order of the Court is a separate paper. In cases of doubt as to whether a paper is separate or not, the Registrar shall decide".

Credit of copying fees.

(v) The entire proceeds from sale of copies shall be credited into the Treasury under a separate detailed head "XXI-Administration of Justice—General Fees, Fines and Forfeiture."

Search fee.

(vi) (a) A search fee of Rs. 5 will be charged under the orders of the Registrar in cases in which an unreasonable amount of trouble has been caused in finding the original records.

(b) In such cases the search fee payable shall be certified by the Judicial Record Keeper to the Copying Agent, who will receive it from the applicant and pay it into the Treasury to the credit of head "XXI-Administration of Justice—General Fees, Fines and Forfeiture".

Copies of translations.

9. Copies of translation of records which have already been translated, or of records originally translated free of charge, will be supplied under the rules applicable to ordinary copies. Copies of translations of records which have not been translated already or of records not ordinarily translated free of charge, will be supplied under the rules applicable to translations.

Time for delivery of copies.

10. (i) The urgent copy shall ordinarily be delivered to the applicant within 48 hours of the receipt of the record in the Copy Branch.

(ii) In case the Copy Branch experiences difficulty in securing the records, the matter shall be reported to the Registrar who shall take steps to secure the record for the Copy Branch.

(iii) Ordinarily copies shall, as far as practicable, be delivered to the applicants in the order in which the fees required under these rules are deposited within a period of one month from the date of application.

✓ 11. If the actual amount of the charge to be made in respect of a copy of translation.—

Refund of fees and recovery of balance.

- (i) exceeds the amount deposited, the balance will be recovered before the copy is delivered;
- (ii) falls short of the amount deposited, the surplus will be returned to the person entitled to the copy at the time of delivering the copy to him.

12. Copies of records required for public purposes by public officers as defined in section 2 (17) of the Code of the Central or State Government of India, shall be supplied free of charge, provided the application for copy is endorsed by the Head of the Department concerned.

Copies required by public officers.

Note.—For the purpose of this rule the District Magistrate will be deemed to be the Head of Department when copies of orders passed by Civil Criminal and Revenue Courts are required by the Prosecuting Agency for the purpose of Appeals and revisions etc., and submission to the Legal Remembrancer to Government, Himachal Pradesh, under the Law Department Manual.

13. Copies of judgments of the High court in criminal cases shall, on application made in this behalf by the accused person, be supplied free of cost :—

Copies to the accused persons.

- (a) in every case in which a sentence of death or transportation for life has been passed or confirmed by the High Court.
- (b) in every case where the accused person wishes to file an application for special leave to appeal to the Supreme Court as an indigent person.
- (c) In any other case if the High Court so directs.

14. On an application being made in accordance with Rule-4 by the Supreme Court and/or the High Court Legal Aid Committee for supply of copies of documents, judgments and orders, etc., such copies shall be supplied free of cost by the High Court provided that the application is accompanied by a certificate that the copies so required would be used only for a purpose connected with providing of legal aid to a person entitled to legal aid under the rules as may be in force from time to time.

15. All copies furnished by the Court shall be certified to be true copies and shall be sealed with the seal of the Court. The officer appointed by the Registrar in that behalf shall initial every alteration and interlineation in the copy, and shall also certify in his own hand, at the foot thereof, that the same is a true copy, and shall further state, on each page, the number of alterations and interlineations made therein.

16. Every copy shall bear an endorsement showing the following particulars of the application :

- (1) No. of application
- (2) Name of applicant
- (3) Date of presentation of application
- (4) Probable date of delivery of copy
- (5) Date of requisition of record
- (6) Date of receipt of record
- (7) Copy prepared by
- (8) Copy compared by
- (9) By photostate
- (10) Date of preparation
- (11) Date of comparison
- (12) Date of attestation
- (13) No. of words
- (14) Copying fee
- (15) Urgent fee
- (16) Agency fee Rs.
- (17) Total Rs.
- (18) Date of delivery

CHAPTER 14

RULES OF PROCEDURE IN CASES UNDER SECTION 366 OF THE CODE OF CRIMINAL PROCEDURE

Printing of record. 1. On receipt of the proceedings under Section 366 of the Code of Criminal Procedure from the Sessions Court, the Registrar shall take immediate steps to have the record printed under the rules next following.

Contents of printed record. 2. The printed record in Murder Reference Cases shall consist of the following documents:—

- (1) Opening Sheet of Sessions record
- (2) Notes and Orders of the Sessions Judge
- (3) Charge Sheet framed by the Sessions Judge
- (4) Plea of the accused.
- (5) Reports of the Chemical Examiner and the Scrologist, if any
- (6) First Information Report
- (7) Inquist Report
- (8) Material documentary evidence, if any
- (9) Record of evidence in Court of Session
- (10) Statements and confessions recorded under section 164 of the Code of Criminal Procedure
- (11) Examination of the accused in Sessions Court under section 313 of the Code of Criminal Procedure
- (12) Judgment of Sessions Judge
- (13) Petition of Appeal

3. Fourteen copies of the Sessions record shall be printed at Government expense with the least possible delay, if there is only one accused, but in case the number of the accused exceeds one, an extra copy shall be printed for each additional accused. Copies of the record.
4. In a case where the Sessions Judge certifies that the accused person cannot afford to engage counsel for his defence in the High Court, the Registrar shall take steps to have counsel engaged for his defence at Government expense. Defence counsel at Government expense.
5. The hearing of the Murder Reference, in view of the provisions of Section 366 of the Code of Criminal Procedure, which lay down that a sentence of death shall not be executed unless it is confirmed by the High Court, shall take place as a rule within about six weeks after the date of receipt of records in the High Court. Time limit for hearing Murder Reference.
6. Immediately on the sentence of death being confirmed or not confirmed, as the case may be, by the High Court, the Registrar shall inform the Superintendent of the jail in which the prisoner is confined of the decision and direct him to communicate the same to the prisoner forth with. The Registrar shall at the same time inform the Sessions Judge concerned and return the records to him for taking steps under section 473 of the Criminal Procedure Code. Copies of the High Court Judgement shall be sent to that officer later, and as promptly as possible. Information of decision to accused.
7. The record of every case as prepared for the use of the High Court in which the sentence of death has been confirmed by the High Court, together with a copy of the High Court judgment and translations of Police Zimnis, shall, as soon as orders have been passed confirming the death sentence, be forwarded to the State Government. Record to be sent to Government.
8. The copies of record received under Section 366 Cr.P.C. shall be compared with the original record and if necessary corrected in the High Court by such officials of this Court as may be nominated for the purpose by the Registrar before being placed before a Criminal Bench. The officials responsible for comparison and correction of the copies of record shall attest the same to be true copies of the original.

By order,

M. R. VERMA,

Registrar

PART-II

APPENDIX-I

SUPREME COURT RULES

The following rules from the Supreme Court Rules, 1966, are reproduced for facility of reference.

*Part-II**Appellate Jurisdiction**(A) Civil Appeals*

ORDER-XV

Appeals on certificate by High Court

1. Where a certificate has been given under clause (1) of Article 132 or clause (1) of Article 133 or Article 135 of the Constitution or, under any other provision of law, the party concerned shall file a petition of appeal in the Court.

2. Subject to the provisions of section 4,5 and 12 of the Limitation Act, 1963 (36 of 1963) the petition of appeal shall be presented within sixty days from the date of the grant of the certificate of fitness.

3. (1) The petition shall recite succinctly and in chronological order with relevant dates, the principal steps in the proceedings leading up to the appeal from the commencement thereof till the grant of the certificate of leave to appeal to the Court, and shall also state the amount or value of the subject-matter of the suit in the court of first instance and in the High Court, and the amount or value of the subject-matter in dispute before the Court with particulars showing how the said valuation has been arrived at. Where the appeal is incapable of valuation, it shall be so stated.

(2) The petition shall be accompanied by a certified copy of the decree or order appealed from. In cases where according to the practice prevailing in the High Court the decree or order is not required to be drawn up, it shall be so stated on affidavit and the petition of appeal in that event shall be accompanied by a certified copy of the Judgment appealed from. It shall not be necessary to file along with the petition of appeal a certified copy of the certificate of fitness granted by the High Court, but the petition shall be supported by an affidavit stating the date on which the application for certificate was made to the High Court, the date of the order granting the said certificate and the provisions of law under which the said certificate has been granted.

(3) Where at any time between the grant by the High Court of the Certificate for leave to appeal to the Court and the filing of the petition of appeal, any party to the proceeding in the Court below dies, the petition of appeal may be filed by or against the legal representative, as the case may

be, of the deceased party, provided that the petition is accompanied by a separate application, only supported by an affidavit, praying for bringing on record such person as the legal representative of the deceased party and setting out the facts showing him to be the proper person to be entered on the records as such legal representative.

4. The Registrar, after satisfying himself that the petition of appeal is in order, shall endorse the date of presentation on the petition and register the same as an appeal in the Court.

5. Where a party desires to appeal on grounds which can be raised only with the leave of the Court, it shall lodge along with the petition of appeal a separate petition stating the grounds so proposed to be raised and praying for leave to appeal on those grounds.

6. Within thirty days of the filing of the petition of appeal, the appellant shall deposit in the Court security for the costs of the respondent.

7. The security for the costs of the respondent shall be in the sum of two thousand rupees. That Court may, in appropriate cases, enhance or reduce the amount of security to be deposited.

8. Where an appellant whose appeal has been registered in the Court fails to furnish the security within the time prescribed, or within such further time as the Court may allow, the Registrar shall call upon the appellant to show cause before the Court why the appeal should not be dismissed for non prosecution.

9. The Court may after hearing the parties who have entered appearance dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require.

Appearance by respondent

10. As soon as the security for the costs of the respondent has been deposited, the Registrar of the Court shall :—

- (i) require the appellant, to furnish as many copies of the petition of appeal as may be necessary for record and for service on the respondent; and
- (ii) send to the Registrar of the Court appealed from a copy of the petition of appeal for record in that court and a copy for service upon the respondent or each respondent :

Provided that the Registrar of the Court may on an application made for the purpose, dispense with service of the petition of appeal on any respondent who did not appeal in the proceedings in the Court appealed from or on his legal representative:

Provided however that no order dispensing with service of notice shall be made in respect of a respondent who is a lunatic :

Provided further that an order dispensing with service of notice shall not preclude any respondent or his legal representative from appearing to contest the appeal.

11. On receipt from the Court of the copy of the petition of appeal, the Registrar of the Court appealed from shall :—

- (i) cause notice of the judgment of the petition of appeal to be served on the respondent personally or in such manner as the court appealed from may by rules prescribe ;
- (ii) unless otherwise ordered by the Court, transmit to the court at the expense of the appellant the original record of the case; including the record of the Courts below ;

Provided that where a transcript is to be prepared in accordance with the proviso to sub-rule (1) of rule 14, no original record shall be transmitted until specifically requisitioned ; and -

- (iii) as soon as notice as aforesaid is served, to send a certificate as to the date or dates on which the said notice was served.

12. A respondent shall enter appearance in the Court within thirty days of the service on him of the notice of judgment of the petition of appeal.

13. The respondent may within the time limited for his appearance deliver to the Registrar of the Court and to the appellant a notice in writing consenting to the appeal, and the Court may thereupon make such order on the appeal as the justice of the case may require without requiring the attendance of the person so consenting.

Preparation of Record

14. (1) The record shall be printed in accordance with the rules contained in the First Schedule to these rules and, unless otherwise ordered by the Court, it shall be printed under the supervision of the Registrar of the Court :

Provided that where the proceedings from which the appeal arises were had in courts below in a language other than English, the Registrar of the Court appealed from shall within six months from the date of the service on the respondent of the notice of petition of appeal transmit to the Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Court, one copy of which shall be duly authenticated. The provisions contained in rules 15 to 20 shall apply to the preparation and transmission to the Court of the said transcript record.

(2) Upon receipt from the Court appealed from the English transcript of the record as aforesaid, the Registrar of the Court shall proceed to cause an estimate of the costs of preparing the printed copies of the records to be made and served on the appellant in accordance with the provisions contained in rule 19 and, with all convenient speed, arrange for the preparation thereof.

(3) Unless otherwise ordered by the Court, at least twenty copies of the record shall be prepared.

15. (1) As soon as the original record of the case is received in the Court, the Registrar shall give notice to the parties who have entered appearance of the arrival of the original record and the parties shall, thereafter, be

entitled to inspect the record and to extract all necessary particulars therefrom.

(2) The appellant shall within four weeks of the notice referred to in sub-rule (1), file a list of the documents which he proposes to include in the paper book, a copy whereof shall be served on the respondent. The respondent may within three weeks of the service on him of the said list file a list of such additional documents as he considers necessary for the determination of the appeal.

16. After the expiry of the time fixed for the filing of the additional list by the respondent, the Registrar shall fix a day for the settlement of list of documents to be included in the appeal record and shall give notice thereof to the parties who have entered appearance. In settling the lists the Registrar as well as the parties concerned, shall endeavour to exclude from the record all documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record as far as practicable.

17. Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is frivolous and the appellant nevertheless insists upon its inclusion, the record as finally printed shall, with a view to subsequent adjustment of cost of the incidental to the printing of the said document, indicate in the index of papers or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the instance of the appellant.

18. Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is frivolous and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of opinion that the document is not relevant, may direct that the said document be printed separately at the expense of the respondent and require the respondent to deposit with, within such time as he may prescribe, the necessary charges therefor; and the question of the costs thereof shall be dealt with by the Court at the time of the determination of the appeal.

19. As soon as the index of the record is settled, the Registrar concerned shall cause an estimate of the costs of the preparation of the record to be prepared and served on the appellant and to require him to deposit within thirty days of such service the said amount. The appellant may deposit the said amount in lump sum or in such instalments as the Registrar may prescribe.

20. Where the record has been printed for the purpose of the appeal before the High court and sufficient number of copies of the said printed record are available no fresh printing of the record shall be necessary except of such additional papers as may be required.

21. Where an appeal paper book is likely to consist of two hundred or less number of pages, the Registrar may, instead of having it printed, have the record cyclostyled under his supervision.

22. If at any time during the preparation of the record the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary within such further time as may be deemed fit but not exceeding twenty-eight days in the aggregate.

23. Where the appellant fails to make the required deposit, the preparation of the record shall be suspended and the Registrar concerned shall not proceed with the preparation thereof without an order in this behalf of the Court and where the record is under preparation in the Court appealed from, of the Court appealed from.

24. When the record has been made ready the Registrar shall certify the same and give notice to the parties of the certification of the record and append to the record a certificate showing the amount of expenses incurred by the party concerned for the preparation of the record.

25. Each party who has entered appearance shall be entitled to three copies of the record for his own use.

26. Subject to any special direction from the Court to the contrary, the costs of, and incidental to, the printing of the record shall form part of the costs of the appeal, but the costs of, and incidental to, the printing of any document objected by one party in accordance with rule 18 or rule 19, shall, if such document is found, on taxation of costs to be unnecessary or irrelevant, be disallowed to, or borne by the party insisting on including the same in the record.

27. Where the record is directed to be prepared under the supervision of the Registrar of the Court appealed from, the provisions contained in rule 16 to 25 shall apply *mutatis mutandis* to the preparation thereof.

Special case

28. Where the decision of the appeal is likely to turn exclusively on a question of law, any party, with the sanction of the Registrar of the Court, may submit such question of law in the form of a special case, and the Registrar may call the parties before him, and having heard them and examined the record, may report to the Court as the nature of the proceedings and the record that may be necessary for the discussion of the same. Upon perusing the said report, the Court may give such directions as to the preparation of the record and hearing of the appeal including directions regarding the time within which or otherwise, the parties shall lodge their respective statements of case :

Provided that nothing herein contained shall in any way prevent this Court from ordering the full discussion of the whole case of the Court shall so think fit.

Withdrawal of Appeal

29. Where at any stage prior to the hearing of the appeal an appellant desires to withdraw his appeal; he shall present a petition to that effect to the Court. At the hearing of any such petition a respondent who has entered appearance may apply to the Court for his costs.

Non-Prosecution of Appeals—Change of Parties

30. If an appellant fails to take any steps in the appeal within the time fixed for the same under these rules, or if no time specified, it appears to the Registrar of the Court that he is not prosecuting the appeal with due diligence,

the Registrar shall call upon him to explain his default and, if no explanation is offered, or if the explanation offered appears to the Registrar to be insufficient, the Registrar may issue a summons calling upon him to show cause before the Court why the appeal should not be dismissed for non-prosecution.

31. The Registrar shall send a copy of the summons mentioned in the last specified rule to every respondent who has entered appearance. The Court may, after hearing the parties, dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require.

32. Where at any time between the filing of the petition of appeal and the hearing of the appeal, the record becomes defective by reason of the death or change of status of a party to the appeal, or for any other reason, an application shall be made to the Court, stating who is the proper person to be substituted or entered on the record in place of, or in addition to the party on record.

33. Upon the filing of such an application the Registrar of the Court shall, after notice to the parties concerned, determine who in his opinion is the proper person to be substituted or entered on the record in place of, or in addition to the party on record, and the name of such person shall thereupon be substituted or entered on the record :

Provided that no such order of substitution or revivor shall be made by the Registrar, —

(i) where a question arises as to whether any person is or is not the legal representative of the deceased party, or

(iii) where a question of setting aside the statement of the cause is involved;

in such a case he shall place the matter before the Court for orders :

Provided further that where during the course of the proceedings it appears to the Registrar that it would be convenient for the enquiry that investigation in regard to the person who is to be substituted on record, be made by the Court appealed from or a Court subordinate thereto, the Registrar may place the matter before the Judge in Chambers and the Judge in Chambers may thereupon make an order directing the Court appealed from to investigate into the matter either itself or cause an enquiry to be made by a Court subordinate to it, after notice to the parties, and submit its report thereon to this Court within such time as may be fixed by the Order. On receipt of the report from the Court below the matter shall be posted before the Judge in Chambers for appropriate orders.

34. Save as aforesaid the provisions of Order XXII of the Code relating to abatement shall apply *mutatis mutandis* to appeals and proceedings before the Court.

35. (1) Within sixty days of the service on him of the notice of authentication of the record, the appellant shall lodge in the Court the statement of his case and serve a copy thereof on the respondent. The respondent shall lodge his case within thirty days thereafter.

(2) No party to an appeal shall be entitled to be heard by the Court unless he has previously lodged his case in the appeal :

Provided that where a respondent, who has entered appearance, does not desire to lodge a case in the appeal, he may give the Registrar of the Court not in writing of his intention not to lodge any case while reserving his right to address the Court in the question of costs only.

36. (1) The statement of a case shall consist of two parts as follows:—

Part I shall consist of a concise statement of the facts of the case in proper sequence. A list of the dates of the relevant events leading up and concerning the litigation in chronological order and pedigree tables, wherever necessary, shall be given at the end of the part.

Part II shall set out the contentions of facts and law sought to be urged in support of the claim of the party lodging the case and the authorities in support thereof. Where authorities are cited, reference shall be given to the Official Reports, if available. Where next-books are cited, the reference shall, if possible be to the latest available editions. Where a statute, regulation, rule, ordinance or bye-law is cited or relied on, so much thereof as may be necessary to the decision of the case shall be set out. At the end of the part shall ordinarily be set out a table of cases cited.

(2) The case shall consist of paragraph numbered consecutively. References shall be given by page and line to the relevant portions of the record in the margin and care shall be taken to avoid, as far as possible, the reproducing in the case of long extracts from the record. The case shall not travel beyond the limits of the certificate or the special leave, as the case may be, and of such additional grounds, if any, as the Court may allow to be urged on application made for the purpose. The Taxing Officer in taxing the costs of the appeal shall, either of his own motion, or at the instance of the opposite party, enquiry into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

37. Two or more respondents may, at their own risk as to costs, lodge separate cases in the same appeal.

38. A respondent who has not entered appearance shall not be entitled, to receive any notice relating to the appeal from the Registrar of the Court, nor allowed to lodge a statement of case in the appeal.

39. The appeal shall be set down for hearing one month after the expiry of the time prescribed for lodging the statement of cases by the respondent. Where a respondent fails to lodge the statement of case within the time prescribed, the appeal shall, subject to the provision in the proviso to rule 1, be set down *ex parte* against the respondent in default.

40. As soon as an appeal is set down for hearing the appellant shall attend at the Registry and obtain eight copies of the record and cases to be bound in cloth or in one-fourth leather with paper sides, and six leaves of

blank paper shall be inserted before the appellant's case. The front cover shall bear a printed label stating the title and Supreme Court Number of the Appeal, the contents of the Volume and the name and address of the advocates on record. The several documents, indicated by inducts, shall be arranged in the following order :—

- (1) Appellant's case ;
- (2) Respondent's Case ;
- (3) Record (if in more than one Part, showing the separate Parts by inducts, all Parts being paged at the top of the page) ;
- (4) Supplemental Record (if any) and the short title and Supreme Court Number of Appeal shall also be shown on the back.

41. The appellant shall lodge the bound copies not less than ten clear days before the date fixed for the hearing of the Appeal.

ORDER XVI

Appeals by Special Leave

1. Where leave to appeal to the Court was refused in a case by the High Court, a petition for special leave to appeal to the Court shall, subject to the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 be lodged in the Court within sixty days from the date of the order of refusal and in, any other case within ninety days from the date of the judgment or order sought to be appealed from : 36 of 1963

Provided that where an application for leave to appeal to the High Court from the judgment of a single judge of that Court has been made and refused, in computing the period of limitation in that case under this rule, the period from the making of that application and the rejection thereof shall also be excluded.

Explanation. - For purposes of this rule the expression 'order of refusal' means the order refusing to grant the certificate referred under article 132 or article 133 of the Constitution on merits and shall not include an order rejecting the application on the ground of limitation or on the ground that such an application is not maintainable.

2. Where the period of limitation is claimed from the date of the refusal of a certificate under article 132 or article 133 of the Constitution. It shall not be necessary to file the order refusing the certificate but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate of fitness to appeal to the Court was made to the High Court the date of the order refusing the certificate and the ground or grounds on which the certificate was refused and in particular whether the application for the certificate was dismissed as being out of time.

3. Where an appeal lies to the Court on a certificate issued by the High Court, no application to the Court for special leave to appeal shall be entertained unless the High Court concerned has first been moved and has refused to grant the certificate.

4. The petition shall state succinctly and clearly all such facts as may be necessary to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner less the petitioner appears in person. The petition shall also state whether the petitioner has moved the High Court concerned for leave to appeal against its decision, and if so with what result.

5. The petition shall be accompanied by—

- (i) a certified copy of the judgment and order appealed from; and
- (ii) an affidavit in support of the statement of facts contained in the petition.

6. No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record of the case in the Court sought to be appealed from; provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

7. The petitioner shall file at least seven spare sets of the petition and of the accompanying papers.

8. Where any person is sought to be impleaded in the petition as the legal representative of any party to the proceedings in the Court below, the petition shall contain a prayer for bringing on record such person as the legal representative and shall be supported by an affidavit setting out the facts showing him to be the proper person to be entered on the record as such legal representative.

9. Where at any time between the filing of the petition for special leave to appeal and the hearing thereof the record becomes defective by reason of the death or change of status of a party to the appeal or for any other reason, an application shall be made to the Court stating who is the proper person to be substituted or entered on the record in place of or in addition to the party on record. Provisions contained in rule 33 of Order XV shall apply to the hearing of such applications.

10. (1) Unless a caveat as prescribed by rule 2 of Order XVIII has been lodged by the other parties who appeared in the Court below, petitions for grant of special leave shall be put up for hearing *ex parte* but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of the petition :

Provided that where a petition for special leave has been filed beyond the period of limitation prescribed therefor and is accompanied by an application for condonation of delay, the Court shall not condone the delay without notice to the respondent.

(2) A caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

Where a caveat has been lodged as aforesaid, notice of the hearing of the petition shall be given to the caveator; but a caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

11. On the grant of special leave, the petition for special leave shall, subject to the payment of additional Court fee, if any, be treated as the petition of appeal and it shall be registered and numbered as such. The provisions contained in Order XV shall, with necessary modifications and adaptations, be applicable to appeals by special leave and further steps in the appeal shall be taken in accordance with the provisions therefor.

ORDER XVII

Pauper Appeals and Applications

1. An application for leave to proceed as a pauper shall be made on a petition. It shall be accompanied by:—

- (a) a copy of petition of appeal and the documents referred to in rule 3 of Order XV, or of the petition for special leave and the documents mentioned in rule 5 of Order XVI, as the case may be, and
- (b) an affidavit from the petitioner disclosing all the property to which he is entitled and the value thereof other than his necessary wearing apparel and his interest in the subject matter of the intended appeal and stating that he is unable to provide security or surety for the cost of the respondent and pay Court fees.

2. The Registrar shall, on satisfying himself that the petition is in order, direct that the petition shall be filed and set down for hearing before the Chamber judge on a date to be fixed for the purpose.

3. The application shall be posted before the judge in Chambers who may himself inquire into the pauperism of the petitioner after notice to the other parties in the case and to the Attorney-General, or make an order directing the High Court either by itself or by a Court subordinate to the High Court, to investigate the pauperism after notice to the parties interested and submit a report thereon within such time as may be fixed by the order. On receipt of the report, the petition shall again be posted before the Judge in Chambers for further orders :

Provided that, if the applicant was allowed to sue or appeal as a pauper in the court from whose decree the appeal is preferred, no further inquiry in respect of his pauperism shall be necessary, unless this Court sees cause to direct such inquiry.

4. In granting or refusing leave to appeal as a pauper, the Court shall ordinarily follow the principles set out in sub-rule (2) of rule 1 or Order XLIV of the Code.

5. Where a petitioner obtains leave of the Court to appeal as a pauper he shall not be required to pay Court-fees or to lodge security for the costs of the respondent.

6. The Judge in Chambers may assign an advocate on record to assist a pauper in the case, unless the pauper has made his own arrangement for his representation. Such assignment shall ordinarily be from a panel of advocates willing to assist paupers and chosen by the Judge in Chambers. It shall however be open to the Judge in Chambers in his discretion to assign an advocate outside the panel in any particular case.

7. (a) No fees shall be payable by a pauper to his advocate, nor shall any such fees be allowed on taxation against the other party except by an order of Court. The advocate may however receive from the pauper money for out of pocket expenses, if any, properly incurred in the case.

(b) It shall be open to the Court, if it thinks fit, to award costs against the adverse party or out of the property decreed to a pauper, and to direct payment of such costs to the advocate for the pauper.

(c) Save as aforesaid, no person shall take or agree to take or seek to obtain from a pauper any fee, profit or reward for the conduct of his case, and any person who takes agrees to take or seeks to obtain, any such fee, profit or reward, shall be guilty of contempt of Court.

(d) Soon after a pauper appeal has been heard and disposed of, the advocate for the pauper shall file in the Registry a statement of account showing what monies, if any, were received by him in the case any account from the pauper or from any person on his behalf and the expenditure incurred. If no monies had been received, a statement shall be filed to that effect. The Taxing officer may, where he thinks it necessary, place the statement filed before the Judge in Chambers for his perusal and orders.

8. Where the appellant succeeds in the appeal, the Registrar shall calculate the amount of court-fees which would have been paid by the appellant if he had not been permitted to appeal as a pauper and incorporate it in the decree or order of the Court; such amount shall be recoverable by the Government of India from any party ordered by the Court to pay the same, and shall be the first charge on the subject-matter of the appeal.

9. Where the appellant fails in the appeal or is dispaupered, the Court may order the appellant to pay the court-fees which would have been paid by him if he had not been permitted to appeal as a pauper.

10. The Central Government shall have the right at any time to apply to the Court to make an order for the payment of Court-fees under rule 8 or rule 9.

11. All matters arising between the Central Government and any party to the appeal under the three preceding rules shall be deemed to be questions arising between the parties to the appeal.

12. In every pauper appeal the Registrar shall, after the disposal thereof, send to the Attorney-General for India a memorandum of the court-fees payable by the pauper.

13. No appeal or other proceeding begun, carried on or defended by a pauper shall be compromised or discontinued without the leave of the Court.

ORDER XVIII

Petitions Generally

1. Every petition shall consist of paragraphs numbered consecutively and shall be fairly and legibly written, type-written, lithographed or printed

on the side of standard petition paper, demy, fool-scape size, or on paper ordinarily used in High Courts for transcribing petitions, with quarter margin, and endorsed with the name of the Court appealed from, the full title and Supreme Court number of the appeal or matter to which the petition relates and the name and address of the advocate on record of the petitioner or of the petitioner where the petitioner appears in person. The petitioner shall file along with the petition such number of copies thereof as may be required for the use of the Court.

2. Where a petition is expected to be lodged or has been lodged, which does not relate to any pending appeal of which the record has been registered in the Registry of the Court, any person claiming a right to appear before the Court on the hearing of such petition may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition, if at the time of the lodging of the caveat such petition has not yet been lodged, and, if and when the petition has been lodged to require the petitioner to serve him with copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The caveator shall forthwith, after lodging his caveat, give notice thereof to the petitioner, if the petition has been lodged.

3. Where a petition is lodged in the matter of any pending appeal of which the record has been registered in the Registry of the Court, the petitioner shall serve any party who has entered an appearance in the appeal, with a copy of such petition and the party so served shall thereupon be entitled to require the petitioner to furnish him at his own expense, with copies of any papers lodged by the petitioner in support of his petition.

4. A petition other than memorandum of appeal containing allegations of fact which cannot be verified by reference to the record in the Court shall be supported by an affidavit.

5. The Registrar may refuse to receive a petition other than petition under Article 32 of the Constitution on the ground that it discloses no reasonable case or is frivolous, or contains scandalous matter but the petitioner may appeal by way of motion, from such refusal to the Court.

6. As soon as all necessary documents are lodged, the petition shall be set down for hearing.

7. Subject to the provisions of rule 8, the Registrar shall, as soon as the Court has appointed a day for the hearing of a petition, notify the day appointed on the notice-board of the Court.

8. Where the prayer of a petition is consented to in writing by the opposite party or where a petition is of a formal and non-contentious character, the Court may, if it thinks fit, make an order thereon, without requiring the attendance of the parties, but the Registrar shall, with all convenient speed, after the Court has made its order, notify the parties that the order has been made and of the date and nature of such order.

9. A petitioner who desires to withdraw his petition shall give notice in writing to that effect to the Registrar. Where the petition is opposed the

opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Court for his costs. but where the petition is unopposed, or where, in the case of an opposed petition, the parties have come to an agreement as to the costs of the petition, the petition may, if the Court thinks fit, be disposed of in the same way *mutatis mutandis* as a consent petition under the provisions of rule 8.

10. Where a petitioner unduly delays the bringing of a petition to a hearing, the Registrar shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all parties who have entered appearance place the petition before the Court for such directions as the Court may think fit to give thereon.

11. At the hearing of a petition not more than one advocate shall be heard on one side.

ORDER XIX

Hearing of Appeals

1. Subject to the directions of the Court, at the hearing of an appeal not more than two advocates shall be heard on one side.

2. No party shall, without the leave of the Court, rely at the hearing on any grounds not specified in the statement of the case filed by him.

3. Where the Court, after hearing an appeal, decides to reserve its judgment thereon, the Registrar shall notify the parties through their advocates on record of the day appointed by the Court for the delivery of the judgment

4. (a) An appellant, whose appeal has been dismissed for default of appearance may, within thirty days of the order present a petition praying that the appeal may be restored and the Court may, after giving notice of such application to the respondent, who has entered appearance in the appeal, restore the appeal if good and sufficient cause is shown, putting the appellant on terms as to costs or otherwise as it thinks fit, or pass such other order as the circumstances of the case and the ends of justice may require.

(b) Where an appeal is heard *ex parte* and judgment is pronounced against the respondent, he may apply the Court to re-hear the appeal, and if he satisfies the Court that the appeal was set down *ex parte* against him without notice to him or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing the Court may rehear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

ORDER XX

Miscellaneous

1. The filing of an appeal shall not prevent execution of the decree or order appealed against but the Court may subject to such terms and condi-

tion, as it may think fit to impose, order a stay of execution of the decree or order, or order a stay of proceedings in any case under appeal to the Court.

2. A party to an appeal who appears in person shall furnish the Registrar with an address for service and all documents left to that address or sent by registered post to that address, shall be deemed to have been duly served.

(B) Criminal Appeals

ORDER XXI

Special Leave Petitions in Criminal Proceedings and Criminal Appeals

SPECIAL LEAVE PETITIONS

1. (1) Where leave to appeal to the Court was refused in a case by the High Court a petition for special leave to appeal shall, subject to the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 36 of 1963. be lodged in the Court within sixty days from the date of order of refusal and in any other case within ninety days from the date of judgment or order sought to be appealed from :

Provided further that where an application for leave to appeal to the High Court from the judgment of a single Judge of that court has been made and refused, in computing the period of limitation in that case under this rule, the period from the making of that application and the rejection thereof shall also be excluded.

Explanation.—For purposes of this rule the expression 'order of refusal' means an order refusing to grant the certificate referred to in article 132 or article 134, as the case may be, of the Constitution on merits and shall not include an order rejecting the application on the ground of limitation or on the ground that such an application is not maintainable.

(2) Where the period of limitation is claimed from the date of refusal of a certificate, it shall not be necessary to file the order refusing a certificate, but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate was made to the High Court, the date of the order refusing the certificate and the ground or grounds, on which the certificate was refused and in particular whether the application for a certificate was dismissed as being out of time.

2. Where an appeal lies to the Court on a certificate issued by the High Court no application to the Court for special leave to appeal shall be entertained unless the High Court concerned has first been moved and it has refused to grant the certificate.

3. The petition shall state sufficiently and clearly all such facts as may be necessary to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner unless the petitioner appears in person. The petition shall also state

whether the petitioner has moved the High Court concerned for leave to appeal against its decision, and if so, with what result.

4. The petition shall be accompanied by :

- (1) a certified copy of the judgment and order appealed from ; and
- (2) an affidavit in support of the statement of facts contained in the petition.

5. (1) No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record in the court or tribunal sought to be appealed from, provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

(2) The High Court or the tribunal concerned shall, on application by a petitioner intending to apply for special leave, grant him free of cost a certified copy of the judgment or order sought to be appealed from.

6. Where the petitioner has been sentenced to a term of imprisonment, the petition shall state whether the petitioner has surrendered. Where the petitioner has not surrendered to the sentence, the petition shall not be posted for hearing unless the Court, on a written application for the purpose, orders to the contrary. Where the petition is accompanied by such an application the application and the petition shall be posted together before the Court.

7. Unless a caveat as prescribed by rule 2 Order XVIII has been lodged by the other parties who appeared in the court below, petitions for grant of special leave shall be put up for hearing *ex parte*, but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of petition.

8. (1) If the petitioner is in jail and is not represented by an advocate on record he may present his petition for special leave or appeal together with the certified copy of the judgment and any written argument which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar of this Court. Upon receipt of the said petition, the Registrar of the Court shall, whenever necessary call, from the proper officer of the court or the tribunal appealed from the relevant documents for determination of the petition for special leave to appeal.

(2) As soon as all necessary documents are available the Registrar shall, where the petitioner has been sentenced to death, assign a counsel from a panel of *amicus curiae* and thereafter place the petition and complete documents for hearing before the Court. The fee of the counsel so assigned shall be one hundred rupees or such reasonable fee as may be fixed by the Court hearing the petition.

9. On the granting of the special leave, the petition for special leave shall be treated as the petition of appeal and shall be registered and numbered as such.

10. Upon an order being made granting special leave to appeal, the Registrar shall transmit to the court appealed from, a certified copy of the order together with a certified copy of the petition for special leave and the affidavit, if any, filed in support thereof.

11. On receipt of the said order, the court appealed from shall give notice of the order to the respondent and require the parties to take all necessary steps to have the record of the case transmitted to the Court in accordance with the directions contained in the order granting special leave. The Registrar of the court appealed from shall certify to the Registrar of the Court that the respondent has received notice of the order of the Court granting special leave to appeal.

CRIMINAL APPEALS

12. Every criminal appeal under article 132 (1) (c) of the Constitution shall be lodged in the Court within sixty days from the date of the certificate granted by the High Court and every appeal under article 134 (1) (a) and (b) of the Constitution or under any other provision of leave within sixty days from the date of the judgment, final order or sentence appealed from:

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order appealed from, and, where the appeal is on a certificate, of the certificate, shall be excluded :

Provided further that the Court may, for sufficient cause shown extend the time.

13. (1) The memorandum of appeal shall be in the form of a petition. It shall state succinctly and briefly, and as far as possible, in chronological order, the principal steps in the proceedings from its commencement till its conclusion in the High Court.

(2) Where the appeal lies to the Court as of right, the petition shall be accompanied by a certified copy of the judgment appealed from.

(3) Where the appeal is preferred by a certificate granted by the High Court it shall not be necessary to file along with the petition of appeal a certified copy of the judgment appealed from or of the certificate of fitness granted by the High Court ; but in such case the petition shall be supported by an affidavit stating the date on which the application for certificate was made to the High Court and the date of the order granting the said certificate and the provision of law under which the said certificate is granted.

14. Where the appellant is in jail, he may present his petition of appeal and the documents mentioned in rule 13 including any written argument which he may desire to advance to the officer-in-charge of the Jail, who shall forthwith forward the same to the Registrar of the Court.

15. The petition of appeal shall be registered and numbered as soon as it is lodged. On the registration of the appeal the Registrar shall send a copy of the petition of appeal and the accompanying papers, if any, to the High Court or the tribunal concerned, and shall cause notice of the appeal to be given, where the appeal is by a convicted person, to the Attorney-General for India or to the Advocate-General or the Government Advocate of the State concerned or to both as the case may require, and, in cases where the appeal is by the Government, to the accused, and shall also furnish the Attorney-General for India or the Advocate-General or the Government

Advocate of the State concerned as the case may be with a copy of the petition of appeal and the accompanying papers, if any.

16. The respondent may enter appearance in the Court within thirty days of the notice of lodgment of the petition of appeal on him.

PREPARATION OF RECORD

17. The record of the appeal shall be printed in accordance with the rules contained in the First Schedule to these rules. It may be printed either under the supervision of the Registrar of this Court, or under the supervision of the Registrar of the Court appealed from. The record shall be printed at the expense of the appellant unless otherwise ordered by the Court. In appeals involving sentence of death and in such other cases in which the Court thinks fit so direct the record shall be printed at the expense of the State concerned.

18. (1) In the preparation of the record, the provisions contained in Order XV relating to the preparation of the record in Civil Appeals shall with necessary modifications and adaptations, apply to criminal Appeals.

(2) In all cases where a sufficient number of copies of the printed record of the court appealed from are available, they shall be despatched to the Court along with such additional records as may be necessary as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and despatched to the Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

19. Where the appellant fails to take necessary steps to have the printed record prepared and transmitted to the Court with due diligence, the Registrar of the court appealed from shall report the default to the Registrar of the Court and the Registrar of the Court may thereupon issue a summons to the appellant calling upon him to show cause before the Court a time to be specified in the summons why the appeal should not be dismissed. The Court may thereupon dismiss the appeal for non-prosecution or pass such orders as the justice of the case may require.

20. Where an appeal has been dismissed for non-prosecution; the appellant may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of the application to the respondent if he has entered appearance restore the appeal if good and sufficient cause is shown.

21. (1) As soon as the record has been got ready the Registrar of the court appealed from shall despatch to the Registrar of the Court not less than fifteen copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

(2) In all cases involving a sentence of death, where a sufficient number of copies of the printed record of the court appealed from are available they shall be despatched to this Court along with such additional records as may be necessary as soon as these are printed and where the record is to be printed

afresh for the Supreme Court appeal the printed record shall be made ready and despatched to this Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

22. As soon as the record is ready the Registrar concerned shall give notice thereof to the parties to the appeal, and where, the record is prepared under the supervision of the Registrar of the Court appealed from the said Registrar shall, after service of the notice, send to the Registrar of the this Court a certificate as to the date or dates on which the notice has been served.

HEARING OF THE APPEAL

23. Each party who has entered appearance shall be entitled to two copies of the record for his own use.

24. Unless otherwise ordered by the Court the appeal shall be set down for hearing thirty days after the expiry of the time prescribed for entering appearance by the respondent.

25. Where the accused person is not represented by an Advocate on Record of his choice the Court may, in a proper case, direct the engagement of an Advocate, at the cost of the Government. The fee of the Advocate so engaged shall be two hundred and fifty rupees for the first day of the hearing, with a refresher, where the hearing has lasted for more than 4-1/2 hours, of one hundred and twenty-five rupees for each additional day of the hearing, or such reasonable fee as may be fixed by the Court hearing the appeal.

26. (1) Due notice shall be given to the accused, where he is not represented, of the date fixed for the hearing of the appeal. The accused person may, if he so wishes, present his case by submitting his argument in writing and the same shall be considered at the hearing of the appeal.

(2) It shall not be necessary for an accused person in custody to be produced before the Court at the hearing unless the Court thinks fit in the interest of justice to direct him to be produced to enable him to argue his case or for other reasons.

27. Pending the disposal of any appeal under these rules, the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

28. After the appeal has been disposed of, the Registrar shall, with the utmost expedition, send a copy of the Court's judgment or order to the High Court or tribunal concerned.

29. In criminal proceedings, no security for costs shall be required to be deposited, and no court fee, process fee, or search fee shall be charged and an accused person shall not be required to pay copying charges except for copies other than the first.

APPENDIX-II

**RULES MADE BY THE HIGH COURT OF HIMACHAL PRADESH
AND TO REGULATE THE PROCEDURE IN CASE OF APPLICATIONS
TO SET ASIDE ORDERS OF FORFEITURE PASSED
BY THE STATE GOVERNMENT UNDER SECTION
95 (1) OF THE CODE, IN EXERCISE OF THE POWERS
CONFERRED BY ARTICLE 225 OF THE CONSTITUTION
AND ALL OTHER POWERS
ENABLING IT IN THIS BEHALF**

Application to be signed and verified.

1. Every application to the High Court, under section 96 (1) of the Code of Criminal Procedure, 1973 to set aside an order of forfeiture under section 95 (1) of the Code shall be made by the presentation of a petition which shall be signed by the applicant and verified at the foot by the affidavit of the applicant.

Language of paper and other essentials.

2. The petition shall be written in the English language on foolscap paper or other paper similar to it in the size and quality, and divided into paragraphs, numbered consecutively. Dates and sums occurring the petition shall be expressed in figures.

Title

3. The petition shall be headed:—

“In the High Court of Himachal Pradesh at Shimla” and shall be instituted. “In the matter of the . . . (name of description of book, document or newspaper as the case may be)”.

Contents of petitions and exhibits to be annexed.

4. The petition shall state what the interest of the applicant is in the property in respect of which the order of forfeiture has been made and all documents or copies thereof in proof of such interest together with a copy of the notice of forfeiture under section 95 of the Code of Criminal Procedure, 1973 shall be annexed as exhibits to the petition.

Grounds to be stated.

5. The petition shall state the ground or grounds on which it is sought to set aside the order of forfeiture.

Deposits of printing charges.

6. The applicant shall, with his petition, attach a receipt for a deposit of Rs. 100 to cover the cost of printing the record.

Translation of vernacular documents.

7. All vernacular documents annexed as exhibits to the petition and all vernacular documents relied on by the applicant and intended to be in evidence shall be translated into English by an official translator or translators.

8. The petition with exhibits annexed thereto and their translations, if any, together with a copy of such petition and exhibits with translations shall be presented to the Deputy Registrar, who will lay the same before the Hon'ble the Chief Justice. The Hon'ble the Chief Justice will then constitute a Special Bench composed of three Hon'ble Judges as required by Section 96 (2) of the Criminal Procedure Code and appoint a day for the hearing and determination of the application.

Presentation of petition and constitution of a special Bench for the hearing.

9. The Deputy Registrar shall forthwith give notice of the filing of the application to the Advocate-General of the State concerned and shall request him to obtain from Government and to furnish to the Court, as soon as possible, a copy of the particular newspaper, book or other document containing the words signs or visible representations on which the declaration of forfeiture was based.

Notice to produce the document on which forfeiture was ordered.

10. Evidence in support of or against the petition shall be in the form of affidavits. The Advocate-General shall, within fifteen days of the receipt of the notice mentioned in Rule 9, file affidavits on behalf of the State and supply copies thereof to the other side. The applicant shall, within fifteen days of the receipt of copies of the affidavits, file his affidavits and like-wise supply the Advocate-General with copies.

Evidence by affidavits.

11. Notice in writing of the day appointed for the hearing and determination of the application shall be given by the Deputy Registrar to the Chief Secretary to Government of Himachal Pradesh as the case may be, and the copy of the petition and exhibits with translations, if any, mentioned in Rule 8 shall accompany such notice.

Date of hearing to be notified to Government.

12. A printed paper-book shall be prepared and completed under the orders of the Deputy Registrar at least one week before the day fixed for hearing and determination of the application.

Printed paper book to be prepared a week before date of hearing

13. There shall ordinarily be printed 30 copies the paper-book, but the Deputy Registrar may, when necessary direct a larger number to be printed.

Thirty copies of paper book to be prepared.

14. In the absence of a special order, the printed paper-book shall ordinarily contain:—

Contents of paper book.

- (1) the declaration of forfeiture in respect of which the application is made ;
- (2) the application and the affidavit of the applicant ;
- (3) the exhibits annexed to the application, or their translation ;
- (4) the affidavits filed under Rule 10 and a reprint of such portions of the prescribed publications (translated into English, if in

vernacular in accordance with rule 7) to be indicated by the parties within 15 days of the receipt of the notice which will be issued by the Deputy Registrar to the applicant, or his counsel, if any, and the Advocate-General.

Note. The cost of printing (1), (2) and (3) will be met by the applicant out of the deposit made under rule 6 and the cost of (4) will be borne by the party concerned.

Recovery of additional cost of printing. 15. If the deposit required under Rule 6 proves insufficient to cover the cost of the printed paper-book, the Deputy Registrar may, by a notice in writing, require that such further deposit, as seems to him necessary, shall be made within one week.

Action to be taken on failure to deposit additional cost. 16. If such further deposit be not made within the time specified in the notice, the application shall be placed, before a Special Bench the composed of three Judges which will either dismiss the application or pass such other orders as may be suitable.

Supply of copies of paper book to parties before date of hearing. 17. The applicant and his counsel and the Advocate General shall be entitled to receive copies of the printed record on application to the Deputy Registrar one week before the date fixed for hearing.

Printing charges to be included in costs. 18. At the foot of every printed-book shall be noted the amount of the printing and incidental charges and the person from whom levied, and such amount shall be included in the costs of the proceedings unless the court shall otherwise direct.

Refund of unspent balance of deposit. Should the amount so charged be less than the sum or sums deposited under Rules 6 and 15, the Deputy Registrar shall refund the balance to the applicant.

Taxation of costs. 19. The table of fees now in force in this Court shall be applicable to all applications under section 96 (1) of the Code of Criminal Procedure and proceedings thereon and costs payable in respect of such applications and proceedings shall be taxed, when so directed, by the Taxing Officer of this Court.

Execution of orders passed. 20. The provisions of the Code of Civil Procedure and the Rules and Orders relating to the execution of decrees shall be applicable to the execution of orders passed by the High Court on applications under Section 96 (1) of the Code of Criminal Procedure.

APPENDIX-III

PART-C—RULES UNDER SECTION 110 OF THE TRADE AND MERCHANDISE MARKS ACT, 1958 (NO. 43 OF 1958)

In exercise of the powers conferred by Section 110 of the Trade and Merchandise Marks Act, 1958 (No. 43 of 1958) the High Court of Himachal Pradesh has made the following rules:—

1. In these rules:—

Definitions.

- (a) The Act means the Trade and Merchandise Marks Act, 1958.
- (b) The Registrar means the Registrar of Trade Marks referred to in Section 4 of the Act and includes any officer appointed under Sub-section (2) of Section 4 of the Act to discharge any of the functions of the Registrar.
- (c) "The Deputy Registrar" means the Deputy Registrar (Judicial) of the High Court of Himachal Pradesh and includes any person performing the functions of Deputy Registrar (Judicial) for the time being.
- (d) "Judge" means a Judge of the High Court of Himachal Pradesh.
- (e) "Court" means High Court of Himachal Pradesh.

2. All applications and appeals under this Act shall be instituted in the matter of the Act and in the matter of the Trade and Merchandise Marks to which they relate.

Title of application.

3. All applications and appeals under the Act shall be made by petition supported by an affidavit and shall be presented to the Deputy Registrar (Judicial).

Mode of application.

4. The Deputy Registrar shall lay the petition before the Judge who may either admit the petition and direct notice thereof to be given to the opposite party or may reject it summarily or make such other order as the circumstances of the case may require.

Disposal of petition.

5. Notice of all the applications or appeals admitted by the Court shall be sent to the Registrar who shall have a right to appear and be heard and shall appear if so directed by the Court.

Service on Registrar.

6. (a) If any application or appeal is made to the High Court, under the Act and any suit or other proceedings concerning the Trade and Merchandise Marks in questions pending before the High Court or any District Court, the High Court may stay such suit or proceeding until the disposal of the said application or appeal.

State of pending suit or proceedings.

(b) In all contested appeals from the decisions of the Registrar the petitioner and the respondent shall furnish to each other, within 2 weeks from the date of the filing of the affidavit in reply, a list of documents forming part of the record of the case before the Registrar on which they rely for the purposes of the hearing of the appeal. The petitioner shall then prepare a duly indexed compilation of the documents relied upon by either side and furnish a copy of the same to the Court and to the opposite party within thirty days of the receipt of the list of documents from the opposite party.

Record of the case in appeal.

Reference under section 107 (2). 7. Where the Registrar makes a Reference to the court under Section 107 (2) of the Act, he shall give notice of the same to the parties concerned. He shall also supply the Deputy Registrar, the postal addresses of all persons interested in the Reference. After the Reference is received, the Deputy Registrar shall fix a date for the hearing of the same and put it on the list of the Judge on such date for disposal. Fifteen day's notice of the day so fixed shall be given by the Deputy Registrar to the Registrar and to the parties concerned by sending the notice by registered post.

Procedure for withdrawal of application under section 109 (7). 8. Where under section 109 (7) of the Act an applicant becomes entitled and intends to withdraw his application, he shall give notice of the intention in writing to the Registrar and to the other parties, if any, to the appeal within one month after the leave referred to in that section has been obtained. He shall also give notice to the Deputy Registrar (Judicial) who shall thereupon forthwith place the appeal on the list for disposal.

Counter-claim for notification of Registrar in a suit for infringement. 9. A defendant in a suit for infringement filed on the High Court may in regard to any registered trade mark in issue counter claim for the rectification of the register and shall within the time limited for the delivery of the counter claim serve the Registrar with the same, and the Registrar shall be entitled to take such part in the suit as he may think fit without delivering a defence or other pleading.

Copy of Judgment and other to be sent to the Registrar. 10. A certified copy of every judgment and order made on any application, appeal or reference under the Act shall be sent by the Deputy Registrar to the Registrar.

Notice how to be given. 11. Unless otherwise provided by these rules, when notice is required to be given to by party by the Act or by these rules, it shall be served on such party in the manner provided for the service of summons in a suit.

Affidavits as evidence. 12. Affidavits shall be treated as evidence of the facts affirmed in them.

Application of the Code of Civil Rules of the Court. 13. In cases not provided or in the foregoing Rules, the provisions of the Code of Civil Procedure, 1908 and, the Rules and Forms of the Court, shall apply *mutatis mutandis* to the proceedings under the Act :

Provided that it shall not be necessary for the Court to frame issues and the evidence may be taken in the form of affidavits where the Judge so directs.

Table of Fees applicable. 14. Process Fees shall be charged according to the Table of Fees or the High Court given in Chapter 5-B, High Court Rules and Orders, Volume IV.

15. Applications relating to infringement of trade marks and passing of actions under the Act and all references, appeals, etc., shall be brought to hearing as early as may be practicable. Disposal of cases.

APPENDIX-IV

THE COPYRIGHT RULES, 1959

In exercise of the powers conferred by Section 73 of the Copyright Act 1957 (Act No. 14 of 1957), the High Court of Himachal Pradesh has made the following rules:--

1. These rules may be called the Copyright Rules, 1959. Short title
2. In these rules unless there is anything repugnant in the subject for context:-- Definitions.
 - (i) 'The Act' means the Copyright Act, 1957 (No. 14 of 1957).
 - (ii) 'The High Court' means the High Court for the State of Himachal Pradesh at Shimla.
 - (iii) 'The Registrar' means the Registrar of Copyright and includes the Deputy Registrar of Copyrights appointed under the Act;
 - (iv) 'Copyright Board' means the Copyright Board appointed under the Act ;
 - (v) 'The Deputy Registrar means the Deputy Registrar (Judicial) for the High Court of Himchal Pradesh at Shimla.
3. Subject to these rules, all appeals from a final decision or order of the Copyright Board shall be made to the High Court in accordance with the provisions of Chapter IV of the Rules and Orders of the High Court of Himachal Pradesh (Appellate Side). Presentation of appeals.
4. Appeals under rule 3 shall be heard and disposed of by a Bench of two Judges. Disposal of appeals.
5. Every memorandum of appeal under section 72 of the Act shall be drawn up in the manner prescribed by Order XLI, Rule 1 of the Code of Civil Procedure, and shall be presented to the Registrar accompanied by a certified copy of the final decision or order appealed from. Contents of appeals.
6. Every Memo of appeal under section 72 of the Act shall bear a court fees as provided in Art. 11 of Schedule II of the Indian Court Fees Act. Court fee
7. There shall be kept a separate register of appeals from a final decision or order of the Copyright Board. Register of appeal.
8. Notice of appeal shall be in the form prescribed for notice issued in Regular First Appeals, with suitable modification, so as to make it clear that it is an appeal from a final decision or order of the Copyright Board. Notice

Contents
of paper-
book.

9. In all appeals admitted to a hearing printed record shall, unless special orders are given to the contrary, be prepared in accordance with the provisions of Chapter 10-A, High Court Rules and Orders, Volume V, which will apply *mutatis mutandis* save and except that the printed record shall be

- (i) Petition of application before the Board.
- (ii) Written statement of petition of objection or reply as the case may be.
- (iii) Deposition of witnesses, if any.
- (iv) Copies of documents exhibited before the Board.
- (v) Copies of any documents rejected by the Board, where its rejection is a ground of appeal or cross objections.
- (vi) Copy of the final decision or order of the Copyright Board.
- (vii) Copies of all affidavits and records used by the Board under section 74 of the Act.
- (viii) Such other document or documents as the Court may direct to be included.
- (ix) The grounds of appeal to the High Court in English.
- (x) The order of the Bench admitting the appeal.

10. The paper-book shall have an index. There shall be a printed paper-book, unless the Court otherwise directs.

Specifying
documents
to be printed.

11. The Deputy Registrar shall as soon as an appeal is admitted, request the Copyright Board to transmit the record of the case to the High Court. Where and in so far as the record consists of an entry in a register kept by the Registrar of Copyrights or the Copyright Board, only a certified copy shall be transmitted.

Upon receiving the record, the Deputy Registrar shall cause notice to be given to the appellant and respondents, or their counsel, if any, to specify within 30 days of the date of receipt of notice the documents mentioned in rule 9-A (V) above, which should be included in the printed record of the appeal. In default of their doing so, the printed record shall consist of the documents specified in Rule 9-A (i) to (iv), (vi), (vii), (viii), (ix) and (x) only.

Taxation
of Costs.

12. Taxation of costs shall be as in Regular First Appeals in Civil cases.

Applica-
tion of
the Code
of Civil
Procedure
and rules
and forms
of the
Court.

13. In cases not provided for in the foregoing rules the provisions of the Code of Civil Procedure, 1908, and the Rules and Forms of High Court of Himachal Pradesh at Shimla shall apply *mutatis mutandis* to all proceedings under the Act.

Table of
fees ap-
plicable.

14. Process fees shall be charged according to the table of fees for the High Court given in Ch. 5-B, High Court Rules and Orders, Volume IV.

APPENDIX-V

THE CONTEMPT OF COURT (HIMACHAL PRADESH) RULES,
1996

PART-I

1. (i) These rules may be called the 'Contempt of Court (Himachal Pradesh) Rules, 1996. Short title.
(ii) They shall come into force on the date of their publication in the Himachal Pradesh Rajpatra.

2. In these rules, unless there is anything repugnant in the subject or context. — Definition

- (a) "Act" means the contempt of courts Act, 1971 (No.70 of 1971).
(b) "Advocate General" means the Advocate General for the State of Himachal Pradesh.
(c) "High Court" means the High Court of Himachal.
(d) "Judge" means a Judge or an Additional Judge of the Himachal Pradesh High Court or a Judge appointed thereto under Article 224-A of the Constitution of India.
(e) "Registrar" means the Registrar of the High Court of Himachal Pradesh, and shall include the Registrar (Vigilance).
(f) All other words and expressions used in these rules but not defined therein shall have the meaning respectively assigned to them in the Act.

PART-II COGNIZANCE AND PROCEDURE
A-GENERAL

3. (i) Every petition, reference or motion for taking proceedings under the Act, shall be registered as Civil Original Petition (Contempt) in respect of Civil Contempts and Criminal Original Petition (Contempts) in respect of Criminal contempts.

(ii) In proceedings initiated by petition the initiator shall be described as the "Petitioner" and the person charged with contempt as the "Respondent".

4. (i) Every petition, motion or reference made under Rule 3 above shall contain in precise language a statement setting forth the facts constituting the contempt of which the person charged is alleged to be guilty and shall specify the date or the dates on which the contempt is alleged to have been committed.

(ii) When the petitioner relies on a document or documents in his possession, he shall file them with the petition.

(iii) Every petition for taking action under the Act shall state the nature of the contempt. It shall be supported by an affidavit, if presented by an aggrieved party.

(iv) Every petition shall be presented in the manner required by rules contained in Chapter-I of Part A(a) of Volume V of the High Court Rules and Orders.

5. (i) Every reference relating to contempt of a court subordinate to the High Court shall be scrutinized by the Registrar who shall place the same before the Chief Justice or any other Judge nominated by him in this behalf for obtaining orders.

(ii) When any publication, application, letter or intimation received by post or otherwise calls for any action being taken under the Act, by the High Court on its own motion, the matter shall be dealt with in the manner prescribed in sub-rule (i), in the case of a criminal contempt of a Subordinate Court, the Chief Justice or the Judge as the case may be, may direct the papers to be sent to the Advocate General who will file a proper petition in the manner prescribed.

6. (i) Every petition, motion or reference in relation to criminal contempt shall be heard by a Division Bench and a petition, motion or reference, in respect of civil contempt shall be laid before a Single Bench.

(ii) Every notice to be issued to a person charged shall be in the form appended to these rules and shall be accompanied by a copy of the motion, petition or reference, as the case may be, together with copies of affidavits, if any. The notice shall be signed and dated by the Registrar and shall be issued under the seal of the High Court.

(iii) Notice of any proceedings under the Act shall be served personally on the person charged, unless the High Court for reasons to be recorded otherwise directs.

(iv) The High Court may, if it is satisfied that the person charged is absconding or is likely to abscond or is keeping or is likely to keep out of the way to avoid service of the notice, order the issue of warrant of his arrest which in the case of criminal contempt, may be in lieu of or in addition to the attachment of his property under Sub-section (iii) and (iv) of Section 17 of the Act, Such warrant may be endorsed in the manner laid down in Section 71 of the Code of Criminal Procedure, 1973, in terms of the orders of the High Court.

(v) Whenever the High Court issues notice it may, dispense with the personal appearance of the person charged with the contempt if it find reasons to do so, and permit him to appear, through his counsel at any stage of the proceedings.

(vi) When any person charged with contempt appears or is brought before the High Court and if he is prepared, while in custody or at any stage of the proceedings, to give bail, such person shall be released on bail if a bond for such sum of money as the High Court thinks sufficient is executed with or without sureties conditioned that the person/persons charged shall attend at any time and at a place mentioned in the bond and shall continue to do so until otherwise ordered by the High Court :

Provided that the High Court may, if it thinks fit, instead of taking bail from such person, discharge him on his executing a bond without sureties for his attendance as aforesaid or without executing such bond. The provisions of Sections 422, 448 and 450 of the Code of Criminal Procedure, 1973 shall so far as may apply to all bonds executed under the Rules.

B—CRIMINAL CONTEMPTS

7. (a) In the case of a Criminal Contempt, other than a contempt referred to in Section 14, the High Court may take action (a-i) on its own motion or (a-ii) on a motion made by the Advocate General, or (a-iii) in case of any other person, with the consent in writing of the Advocate General.

* (b) Any person so charged may file an affidavit in support or this defence on the date fixed for his appearance or on such other date as may be fixed by the High Court in that behalf.

(c) If such person pleads guilty to the charge, his plea shall be recorded and the High Court may in its discretion convict him thereon.

(d) If such person refuses to plead or does not plead or claims to be tried or the High Court does not convict him on his plea of guilt, it may determine the matter of the charge either on the affidavits or after taking such further evidence as it may deem fit.

8. Reference under Section 15 (2) of the Act may be made by a subordinate Court either *suo-motu* or on an application received by it. The Subordinate Court before making a reference to the High Court shall hold a preliminary enquiry by issuing a show cause notice accompanied by copies of relevant documents, if any, to the contemner and after hearing the matter the Subordinate Court shall make concise reasoned order of reference to the High Court.

C—CIVIL CONTEMPTS

9. In the case of a civil contempt other than a contempt referred to in Section 14, the High Court may take action:—

- (a) On its own motion; or
- (b) On a petition presented by the party aggrieved; or
- (c) In the case of any civil contempt of a Subordinate Court, on a reference made to it by that Court.

The Subordinate Court will make a reference to the High Court in accordance with rule 8 of these rules.

10. (i) The person so charged with civil contempt may file his affidavit by way of reply to the charge and shall serve a copy thereof on the petitioner or his counsel at least seven days before the date of hearing.

(ii) No further return, affidavit or documents shall be filed except with the leave of the High Court.

11. In a case of civil contempt, the High Court may determine the matter of charge either on affidavits filed or on such further evidence as may be taken by itself or recorded by a Subordinate Court in pursuance of a direction made by it and pass such order as the justice of the case requires having regard to the provisions of Section 12 and 13 of the Act.

D—APPEALS

12. An appeal under Section 19 of the Act shall be filed in accordance with the rules contained in Chapters-I-A (d) and 2-C of the High Court Rules and Orders Vol-V, in so far as the same may be applicable.

E—MISCELLANEOUS

13. (1) A Paper Book consisting of documents specified in Rule 4 above shall be filed by the petitioner in triplicate.

(2) In a case where the proceedings are initiated by the High Court *suo motu* or on the motion of the Advocate General or on a reference from the Subordinate Court a paper-book for use of the court shall be prepared by the Registry of the High Court in triplicate. A paper-book shall consist of:—

(i) Reference or order;

(ii) An objectionable material, if any, alleged to constitute the contempt;

(iii) Any other document which the Registry may deem fit to include or which the High Court may require;

(3) All relevant material brought on record from time to time shall be included in each paper-book.

(4) In any such case, the High Court may at any stage appoint an Advocate for the conduct of the proceedings.

14. The rules contained in Chapter 1-F of Volume-V of the High Court Rules and Orders in so far as they may be applicable, govern the processes issued under these rules.

15. The rules relating to grant of copies and translation of documents as contained in Chapter 5-B, of Volume V of the High Court Rules and Orders shall in so far as they may be applicable govern the proceedings under the Act.

16. Any person summoned by the High Court to appear as a witness any proceedings under the Act shall be paid his expenses as may be determined according to the rules for the time being in force and which shall be paid out of the contingency fund of the High Court :

Provided that the High Court may direct any party to such proceedings to pay such expenses.

17. The High Court may direct any party to a proceedings under the Act to pay the costs thereof as determined by it to any other party thereto.

18. The order passed in the proceedings under the Act shall be carried out, enforced and executed as if these were the orders passed by the High Court under the Code of Criminal Procedure, 1973.

M. R. VERMA,
Registrar.
High Court of Himachal Pradesh, Shimla.

Endst. No. HH C/Rules (Contempt)/ 96 Dated :

Copy forwarded for information and necessary action thereto :

1. The Secretary (Law) to the Government of Himachal Pradesh.
2. The Secretary (Home) to the Government of Himachal Pradesh
3. The District & Sessions Judges/Additional District & Sessions Judges, in Himachal Pradesh.
4. All the Senior Sub Judges/J.M.I.C, in Himachal Pradesh.
5. The Advocate General to the Government of Himachal Pradesh.
6. The Presidents of all the Bar Associations in Himachal Pradesh.
7. The Special Private Secretary to the Hon'ble the Chief Justice.
8. All the Addl. Registrars/Deputy Registrars/Assistant Registrars/Marriage Councillor/Officer on Special duty of the Registry.
9. All the Court Secretaries/Private Secretaries/Secretaries and Readers. of this Registry.
10. All the Superintendents/Deputy Superintendents of this Registry.
11. Private Secretaries to the Registrar and Registrar (Vigilance) of this Registry.
12. The Chief Librarian of this Registry (with 10 copies).
13. The Controller. Printing & Stationery, H. P. Shimla-5 for publication in Rajpatra

J. L. GUPTA.
Additional District and Sessions Judge (Rules).

FORM No. 1

(NOICE TO PERSON CHARGED WITH CONTEMPT OF COURT)
IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CIVIL/CRIMINAL ORIGINAL PETITION (CONTEMPT)

..Petitioner

Versus

..Respondent

To

Whereas it appears that by your acts, conduct, utterances and writing you have committed contempt of court in the facts and circumstances mentioned in the enclosed copy of the petition/reference/motion. You are hereby, required to appear in person (or by an Advocate if the Court so order)

and to show cause before the court at Shimla on----- day of ----- 199 at 10 A.M. why you should not be punished or other appropriate order be not passed against you for contempt of the High Court/Subordinate Court (name of the Court). You shall continue to attend the court on all dates (unless the court exempts you from personal appearance) thereafter to which the case may stand adjourned and until final orders are passed on the charge against you. Herein fail not.

GIVEN UNDER MY HAND AND THE SEAL OF THE COURT
THIS ----- DAY OF ----- 199 .

SEAL.

REGISTRAR.

FORM II

WARRANT OF ARREST

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ORIGINAL CRIMINAL CONTEMPT PETITION

No of 199

Versus

..Petitioner

..Respondent

To

(Name and designation of the person or persons who is or are to execute the warrant).

WHEREAS.....(State the name of persons charged with contempt of court) resident of is charged with committing contempt of the High Court or Subordinate (Name the Court) you are hereby directed to arrest the said Court and to produce him before this court. Herein fail not.

REGISTRAR.

(If the court has issued a bailable warrant, the following endorsement shall be made on the warrant).

If the said shall give bail in the sum of Rs. with one surety in the sum of Rs. (or two sureties each in the sum of Rs.) to attend before this court on the day of 1997 and to continue to attend until otherwise directed by this court, he may be released.

Dated thisday of199 .

REGISTRAR.

FORM-III

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
(ORIGINAL JURISDICTION)

CONTEMPT PETITION (CIVIL/CRIMINAL) NO.....
OF 199

..Petitioner.

Versus

..Respondent

To

The Superintendent (or Keeper) of the Jail at
.....

WHEREAS this court on thisday of 199 adjudged
(name of the contemner with address).....
guilty of wilful contempt of court, and he has been sentenced to suffer im-
prisonment for a term of.....(here specify the
term) and/or to pay a fine of Rupees.....

This is to authorise and require you, the Superintendent (or Keeper) or
the said Jail, to receive the said (Name of the contemner) into your custody
together with this warrant, and him safely to keep in the said jail for the
said period of (term of imprisonment) or for such shorter period as may
hereafter be fixed by order of this court and intimated to you. You are
directed to return this warrant with an endorsement certifying the manner
of its execution.

You are further directed that while the said.....
is in your custody, produce the said
before the court, at all times when the court shall so direct.

Given under my hand and the seal of the Court this.....
day of.....199

REGISTRAR.

APPENDIX-VI

RULES RELATING TO COUNSEL FEES

1. In suits for the recovery of specific property, or a share of specific
property, whether movable or immoveable, or for the breach of any contract
or for damages—

- (a) if the amount or value of the property, debt or damages decreed
shall not exceed rupees five thousand according to the valuation

Suit for
debit, da-
mages and
recovery
of specific
property.

for purposes of appeal to the Court, the fee shall be calculated at seven and a half per cent (7½% on the amount or value decreed, but the Court, may, in any case, otherwise order and fix such percentage as shall appear to be just and equitable;

(b) If the amount or value decreed shall exceed rupees five thousand, the fee payable shall be calculated at such a percentage as shall appear to the Court to be just and equitable.

Suit for injuries to person or property or character Suits for partition and pre-emption and other rights. 2. In suits for injuries to the person or character of the plaintiff, such as suits for assault or defamation or for injuries to property, or to enforce rights where the pecuniary value of such injury or right cannot be exactly defined, —as in suits for interference with a right or light or water, or to enforce a right of pre-emption or suits for the partition of joint property where partition is improperly resisted, if the plaintiff succeeds, the Court may order the fee allowed to the plaintiff to be calculated with reference either to the amount decreed or according to the valuation of the suit or according to such sum not exceeding the valuation, as the Court shall think reasonable and shall fix with reference to the importance of the subject matter in dispute. In any such case, the amount of the fee shall be calculated according to rule 1.

When suit dismissed on merits or default. 3. If the suit be dismissed for default or upon the merits, the fee allowed to the defendant shall be calculated according to rule 1 on the whole value of the suit.

When suit partly dismissed. 4. If the suit shall be decreed for the plaintiff as to part only of the claim, and as to the remainder shall be dismissed, the fee allowed to each party should be fixed with reference to the value of that part of the claim in respect of which he shall succeed, and shall be calculated according to rule 1.

In case of several defendants having separate interest. 5. If several defendants who have a joint or common interest succeed upon a joint defence, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid or shall apportion it among the several defendants in such manner as the Court shall think fit.

Several defendants having separate interest. 7. If several defendants, who have separate interest, set up separate and distinct defences and succeed thereon, a fee for each of the defendants who shall appear by separate counsel may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated, with reference to the value of the separate interest of such defendants, according to rule 1.

Miscellaneous proceedings. 8. In any miscellaneous proceedings or for any matter other than that of appearing, acting or pleading in a suit prior to decree, the fee shall be fixed by the Court with reference to the nature and importance of the proceeding or matter: Provided that in no case shall be the amount allowed in respect of such fee exceed rupees seven hundred and fifty.

Half fees in undefended suits. 9. If a suit in the High Court, as a Court of original jurisdiction, be undefended, the fee shall be calculated at one-half the sum fixed for a defended suit of the same nature and value.

10. If a review be rejected after summoning the opposite party or if, after the admission of a review, the former judgment be upheld, the fee, if allowed to the successful party in the review, shall be fixed by the Court at an amount which shall not, any case exceed one-half of the amount allowed by these rules in case of an original decree. When re-view is rejected.
 11. If, after the admission of a review, the former judgment be revised, the fee in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one-half the amount allowed by these rules in case of an original decree. The fee allowed in respect of the review will be irrespective of any fee which may be included in any costs in respect of the original suit which may be adjudged to the successful party by the judgement in review, unless the Court shall otherwise order. When re-view is accepted.
 12. In appeals, the fee shall be calculated on the same scale as in original suits; and the principles of the above rules as to original suits shall be applied, as nearly as may be, in appeals. Appeals
 13. When the interest of several appellants is joint, not more than one fee shall be allowed, unless the Court shall otherwise order. If one fee only be allowed the Court shall direct to which of the appellants it shall be paid or shall apportion it amongst the several appellants in such proportion as it shall think fit. Where several ap-pellants have joint interest.
 14. If several respondents in one appeal appear by separate counsel in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in rules 6 and 7. Several re-spondents.
 15. If, in any instance, the payment of fees according to the preceding rules shall not appear to the Court to be just and equitable the court may exercise its discretion in allowing such fee as may appear just and equitable. Discretion of court to deviate from the scale laid in the rules.
- Provided that, if an appeal be preferred against a decree passed on remand, the fee, if any, allowed by the Court to the party succeeding in that appeal, shall not, unless the Court shall otherwise order, be less than one quarter, not more than one-half of the amount which would be allowed under the rules upon an original hearing, if, by the decree remanding the case, the same party shall have been allowed fees in respect of the former appeal in the suit either absolutely or conditionally upon his succeeding upon the remand: Appeals from de-crees pas-sed on re-mand.
- Provided also, that if an issue be framed and referred by the Court for trial by a lower Court, the Court may, if it thinks proper, allow to the party who shall succeed in the appeal, such sum as the Court shall consider reasonable not exceeding half the amount which would be allowed under these rules in an original case, for his fee in respect of the trial of the issue in the Lower Court, in addition to a fee in respect of the appeal. Fees for trial of issues re-ferred to the Lower Court.

Certificate of payment of fees to counsel to be put in before fees are allowed by Court.

16. Notwithstanding anything contained in the rules of the Court and notwithstanding any order of a Judge or Judges, no fee for the appearance of any Advocate, Vakil or Attorney shall, except as in these rules here-in after provided be allowed on taxation between a party and party, or shall be incided in any decree or order unless the Taxation officer is satisfied that the fee was paid to the Advocate, Vakil or Attorney and unless the party claiming to have such fee allowed shall, within seven days after the judgment or order in the proceedings, file in the office of the Taxing Officer, a certificate signed by the Advocate, Vakil or Attorney as the case may be, certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other Advocate, Vakil or Attorney in whose place he may have appeared,

Contents of certificate.

17. Such certificate shall state—

- (a) the case matter or proceeding in respect of which such fee or fees was or where paid;
- (b) that date or dates when such fee or fees was or were actually paid to the Advocate, Vakil or Attorney engaged, the case, matter or proceeding either as the exclusive fee or fees of such Advocate, Vakil or Attorney or as the fee or fees of the Advocates, Vakils or Attorneys associated and to be associated in the case, matter or proceeding in the High Court;
- (c) the precise amount or amounts which was or were so paid;
- (d) that no portion of such fee or fees has been returned, and that, no agreement for return or remission of the same has been made by the Advocate, Vakil or Attorney or by any one on his behalf; and
- (e) the name and address of the person who made such payment :

Certificate of payment where higher fees above the scale allowed.

Provided that when a higher fee than is allowed by the scale is allowed by special order of the Court, a certificate of the payment of the additional fee at any time may be accepted if filed before taxation in lieu of the certificate required by these rules.

Form of Certificate of payment of fees.

18. The certificate mentioned in rule 16 shall, so far possible, be in the following form :—

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Between and

For the purpose of presentation to the Taxing Officer having my fee allowed on taxation as against the party or parties who may be liable for costs under the judgment or order of the Court, I..... in accordance with rule 17 of the rules regulating the fees of counsel in the Court, hereby certify that in the above.....

the following fees were paid to me as my exclusive fee

or as my fee as well as that of who was associated
 were to be associated
 with me in the case on the dates and by the person
 or persons specified below, and that no portion of such fees has been return-
 ed and that no agreement for such return or remission has been made by
 me or by any one on my behalf or on behalf of
 was
 who associated with me
 were
 in the case.—

Matter	Fee	Date of payment	By whom paid	Address of person who actually made such payment
--------	-----	-----------------	--------------	--

Signature.....
 Date of Signature.....
 Address of Advocate, Vakil or Attorney.....
 Filed on the day of by.....

Note.—In the certificate of fees filed by the legal practitioners engaged by Government in cases in which the Union of India or a State Government is a party, or in which the actual party is not Government but Government Servants or some other persons whose defence Government decides to undertake at public expense, or in which a Municipal Committee or a Local Body or an Improvement Trust is a party, it is sufficient to certify that a fee has been fixed not paid by the Legal Remembrancer to Government, Himachal Pradesh or other appropriate authority as the case may be. The same procedure may, by a resolution of the Judges in meeting be extended to counsel appearing on behalf of an Official Liquidator appointed by the High Court

19. Counsel engaged in matrimonial cases in the High Court, should when filing a certificate required by rule 16, submit a detail of the work done or to be done by them for which they have charged their clients. Only those charges which are necessary to enable the parties to conduct the litigation will be allowed by the Taxing Officer who will bear in mind that the object in giving costs is to indemnify the successful party against the expenses to which he has been put by the unsuccessful party. The maximum fee in a defended matrimonial cause shall be Rs. 1,500, and half that amount in undefended causes, provided that the Judge, who tries the case may allow the full fee in an undefended cause, should be nature of the work done by counsel warrant it.

Matrimo-
 nial cases.

Note.—For rules regarding fees of counsel in subordinate courts See Parts B and C of Chapter 16 of Volume I.

